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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Croatia

Adopted by GRECO
at its 44th Plenary Meeting
(Strasbourg, 6-8 October 2009)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Croatia at its 26th Plenary Meeting (9 December 2005). This report Greco Eval II Rep (2005) 4E, which contains 11 recommendations addressed to Croatia, was made public on 13 December 2005.
2. Croatia submitted the Situation Report required under the GRECO compliance procedure on 17 September 2007. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC-Report) on Croatia at its 35th Plenary Meeting (7 December 2007). This last report was made public on 13 December 2007. The Compliance Report (Greco RC-II (2007) 13E) concluded that recommendations i, ii, iv, vi and x had been implemented satisfactorily, recommendation ix had been dealt with in a satisfactory manner, recommendations iii, v and viii had been partly implemented, and recommendations vii and xi had not been implemented. GRECO requested additional information on their implementation. This information was provided on 1 July 2009.
3. The purpose of this Addendum to the Second Round Compliance Report is, in accordance with Rule 31, paragraph 9.1 of GRECO's Rules of Procedure, to appraise the implementation of recommendations iii, v, vii, viii and xi in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation iii.

4. *GRECO recommended that the effectiveness of the provisions of the Law on the Right of Access to Information and its implementation be assessed and that training on the provisions of the law be provided to all information officers and to public officials who manage programmes that are subject to significant requests for information.*
5. GRECO recalls that in the RC-report the recommendation was considered partly implemented since it was not substantiated that an assessment of the effectiveness of the Law on the Right of Access to Information had been carried out; moreover, the training reported (one single seminar) was deemed to be insufficient.
6. The authorities of Croatia reiterate the key role played by the Central State Office for Administration in monitoring the Law on the Right of Access to Information through the publication of consolidated annual reports including details on implementation of access to information requirements by the different public bodies; annual reports are publicly available on the website of the Central State Office for Administration (<http://www.uprava.hr>). In October 2008, the Government issued a binding decision for all State administration bodies to submit more frequent (quarterly) reports to the Central State Office for Administration on implementation of access to information obligations. As per the specific contents of the reports published in this area, they contain, *inter alia*, data on the overall number of information requests filed, responses and denials. In this connection, the authorities report that the number of information requests has decreased in the last four years. The authorities further indicate that, as part of the ongoing activities of the new Anticorruption Strategy and Action Plan for the Fight against Corruption – which was adopted in June 2008 – a Working Group has been created to analyse the reasons for administrative denials to information requests and to find solutions thereafter.

7. In so far as training is concerned, the authorities now report several seminars held during 2007, 2008 and 2009 for public officials on access to information rights and duties. The State Administration Reform Strategy for the period 2008-2011 foresees the development of further training courses in this subject matter.
8. GRECO notes that a number of steps have been taken to pave the way for a more effective implementation of the Law on the Right of Access to Information, in particular through regular reporting of public administration bodies concerning the relevant action taken to comply with the provisions of the law, as well as training of officials with key responsibilities in this field. GRECO also welcomes the establishment of a Working Group to assess the reasons for administrative denials to information requests. The authorities may wish to keep GRECO informed of the outcome of the aforementioned analysis, including the potential measures identified to better guarantee the effectiveness of the corresponding access to information provisions in practice.
9. GRECO concludes that recommendation iii has been dealt with in a satisfactory manner.

Recommendation v.

10. *GRECO recommended the consideration of including in any new civil service law the following tools that will help to combat corruption: the general legal authority to develop a rotational system if necessary; a requirement to screen potential civil servants and employees for previous convictions; a requirement to report suspected corruption or other crimes; and protection from reprisal for reporting and, thereafter for those tools included, establishing a process by which the fairness, efficiency and effectiveness of their implementation can be evaluated.*
11. GRECO recalls that in the RC-report this recommendation was deemed as partly implemented since a system to protect whistleblowers from adverse consequences had not been established.
12. The authorities of Croatia now report that the Act on Civil Servants was amended in February 2008 so as to include specific provisions granting protection to officials reporting suspected corruption in good faith. In particular, a mechanism for reporting corruption (including the possibility of anonymity) has apparently been set up and provision is made to ensure protection against any potential reprisal or any other form of abuse.
13. The authorities have added a range of measures to promote ethical behaviour in public administration, notably, through the establishment of a coordinated institutional framework (Department of Ethics, Ethics Commissioners – a total of 350 to date – and the Ethics Committee), which is to ensure effective implementation of the deontological provisions enshrined in the Code of Ethics of civil servants, as well as through the provision of targeted training on deontological principles.
14. Finally, the authorities report a number of legislative safeguards to ensure not only the screening of potential civil servants and employees for previous convictions, but also their mandatory removal from public office if convicted for a corruption offence.
15. GRECO welcomes the measures reported to enhance integrity in the public sector. It further acknowledges the new legislative provisions introduced in the Act on Civil Servants concerning whistleblower protection. Consequently, GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vii.

16. *GRECO recommended that the appropriate authorities develop public, written interpretative guidance of the current prohibitions for public officials and the relationship of those prohibitions to the relevant corruption-related provisions under criminal law, and that the Commission for the Resolution of Conflicts of Interest include a similar discussion in its informational materials.*
17. GRECO concluded in the RC-report that the recommendation had not been implemented because no relevant steps had been reported in this area.
18. The authorities of Croatia now indicate that the Commission for the Resolution of Conflicts of Interest adopted, on 18 June 2009, guidance on the prohibitions imposed on public officials under the Law on Preventing Conflicts of Interest in Public Office and the relationship of those prohibitions to the relevant corruption-related provisions under criminal law. The guidelines are published on the anticorruption website of the Government (www.antikorupcija.hr) and are to be further disseminated throughout public administration.
19. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation viii.

20. *GRECO recommended to ensure that persons establishing companies are screened in respect of security measures involving limitations of rights to which they might be subjected (e.g., prohibition to engage in a profession, activity or specific duty); and to establish a system to timely notify the commercial courts whenever a leading person in a corporation has been banned from business activity by a criminal court.*
21. GRECO recalls that in the RC-report note was taken of legislative amendments underway to better enable commercial courts to perform a before the fact review of the criminal records of the persons involved in the establishment of a company. However, pending adoption of the relevant amendments, the recommendation was deemed as partly implemented.
22. The authorities of Croatia now state that amendments were introduced to the Criminal Code (Article 86) and the Book of Rules on Criminal Records¹ to allow commercial courts to access data from criminal records concerning security measures involving limitations of rights of leading persons in corporations for registration purposes.
23. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation xi.

24. *GRECO recommended that the Croatian authorities encourage the private accountants' and auditors' representative bodies to issue guidelines and organise training on the detection and reporting of corruption.*
25. GRECO recalls that, in the absence of details as to the provision of guidance and training to private accountants and auditors on the detection and reporting of corruption, the recommendation was assessed as not implemented at the time of adoption of the RC-report.

¹ Official Gazette No. 92/09 of 29 July 2009 and Official Gazette No. 108/09 of 11 September 2009.

26. The authorities of Croatia report that a new Act on Prevention of Money Laundering was adopted on 1 January 2009 in order to transpose the EU Third Money Laundering Directive (Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing), as well as to comply with the relevant FATF recommendations. The new Act on Prevention of Money Laundering introduces, *inter alia*, a new set of obligations for non-financial professions (e.g. customer due diligence); for this reason, guidance, indicators for the identification of suspicious transactions and training programmes have been/are being provided to auditors, accountants and tax consultants. Likewise, the Ministry of Finance has organised training sessions to increase awareness of auditors and accountants as to corruption and fraud in the private sector, ways to identify malpractice and report it to the competent law enforcement bodies.
27. GRECO concludes that recommendation xi has been implemented satisfactorily.

III. CONCLUSION

28. In addition to the conclusions contained in the Second Round Compliance Report on Croatia and in view of the above, GRECO concludes that recommendations vi, vii, viii and xi have been implemented satisfactorily; recommendation iii has been dealt with in a satisfactory manner. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that of the eleven recommendations issued to Croatia, all of them have now been implemented satisfactorily or dealt with in a satisfactory manner.
29. The adoption of this Addendum to the Compliance Report concludes the Second Evaluation Round compliance procedure concerning Croatia.
30. Finally, GRECO invites the authorities of Croatia to translate it into the national language and to make the translation public.