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First Evaluation Round

Compliance Report on Cyprus

Adopted by GRECO
at its 16th Plenary Meeting
(Strasbourg, 8-12 December 2003)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Cyprus at its 7th Plenary Meeting (17-20 December 2001). This Report (Greco Eval I Rep (2001) 6E) was made public by GRECO, following authorisation by the authorities of Cyprus on 11 February 2002.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Cyprus submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 2 July 2003.
3. At its 13th Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Malta and Poland to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Anton Bartolo on behalf of Malta and Mr Jacek Garstka on behalf of Poland. 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 16th Plenary Meeting (8-12 December 2003).
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 Cyprus and, wherever possible, their effectiveness in order to comply with the recommendations contained in the Evaluation Report.

II. ANALYSIS

6. It was recalled that GRECO in its Evaluation Report addressed 10 recommendations to Cyprus. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended the creation of the specialised body to advise on anti-corruption policy which is already under consideration by the Cypriot authorities; this should have a widely-representative composition; its mandate should enable it to make a contribution to policy co-ordination, elaborating proposals for legislative change, making suggestions for the elimination of the conditions that enable or facilitate corruption and identifying areas that should be given priority attention; it should be also entrusted with publicly promoting the fight against corruption.*
8. The authorities of Cyprus indicated that the Law Office of the Republic (Office of the Attorney General), following consultations with Public Departments and the private sector, submitted a proposal to the Council of Ministers which is constitutionally empowered to set up a specialized Co-ordinating Body Against Corruption, as planned and in line with the aforementioned recommendation. The Council of Ministers approved on 23.4.2003, the creation of the Body, which consists of the following members:
 - The Deputy Attorney General and the Counsel of the Republic, who represents Cyprus in GRECO
 - The Ministry of Justice and Public Order
 - The Police
 - The Auditor General

- The Chairman of the Parliamentary Committee on Legal issues.
 - The Chairman of the Parliamentary Committee on Institutions and values.
 - The Chairman of the Cyprus Bar Association.
 - The Chairman of the Institute of Certified Public Accountants
9. This Body will be chaired by the Deputy Attorney General and its tasks will be to examine the existing measures against corruption, to suggest the adoption of further measures, if considered necessary, based on international standards and measures, after taking into account the existing situation in Cyprus. It will also have the task to raise public awareness on the dangers and risks of corruption and to promote co-operation between public authorities and the private sector in the fight against this phenomenon.
10. GRECO was furthermore informed that after 23.04.2003, several separate meetings were held with each authority represented in the new body, as well as with the representatives of Lawyers and Accountants, in order to inform them about the measures in this area, the role of GRECO, their respective role etc¹.
11. GRECO took note of the information provided and concluded that this recommendation has been implemented satisfactorily.

Recommendation ii.

12. *GRECO recommended that a system should be established for the declaration of assets and interests of high State officials, including Members of Parliament, the President of the Republic, the Attorney-General and Ministers.*
13. The authorities of Cyprus reported that the draft under consideration at the time of the adoption of the Evaluation Report was finally enacted by the Parliament. However, for reasons of incompatibility with the Constitution (violation of its provisions on the right to privacy), the law never entered into force. A new draft bill is before the Parliament (at the final stage) which would cover the issue and which is expected to be enacted before the end of 2003.
14. The authorities of Cyprus also underlined that despite the current lack of legislation on the declaration of assets, the new Government elected last February and particularly the President himself, requested the members of the Council of Ministers to prepare and submit statements on their income and their interests in any companies and any assets. Based on this decision the President of the Republic, the Ministers and the Government Spokesman have made such statements, which were published in the newspapers and hence, became known to the public. This was the first time that such a measure has been taken in Cyprus.
15. GRECO welcomed the decision of the new Government and President regarding the spontaneous publication of assets on the occasion of the last elections. It expressed the hope that this decision, although it remains an isolated one, would ease the adoption of legislation in a field which seems to be sensitive enough to have triggered the application of the Constitutional control over, and the end of the previous draft bill. GRECO expressed the hope that a solution could be found to reconcile constitutional considerations and the need for transparency of the income of high State officials as a whole, not only the Government and President. For the time

¹ The body had its first formal meeting in September 2003; it discussed the GRECO evaluation report and the implementation of recommendations, and decided that it would submit an annual report on its activities to the Council of Ministers.

being, the new legislation is still under consideration in Parliament and, to some extent, the final outcome is uncertain in the light of Cyprus' experience with the previous bill. The enactment is expected before the end of 2003.

16. GRECO concluded that the recommendation has been partly implemented. It invited the Government to report back on the final adoption and implementation of the current draft, and its scope.

Recommendation iii.

17. *GRECO recommended that the authorities of Cyprus examine whether it would be advisable to develop a more coherent approach on the arrangements for the approval of the budget of the various authorities that are entrusted with the fight against corruption.*
18. The authorities of Cyprus indicated that discussions and consultations on this issue took place with the Ministry of Finance. The position of the Ministry is that the situation and procedures for the approval of the Budget never created any problem or risk, and that it is in line with the relevant provisions of the Constitution (Art. 167 and 168 in particular). Cyprus also reminded that the proposals and estimates, included in the draft Budget to be prepared by the Ministry of Finance, are based on inputs from the various Ministries, Departments and Independent Offices; it is up to them to evaluate their needs and submit the necessary proposals for the Budget. The draft is then submitted by the Minister of Finance to the Council of Ministers for approval and then to the Parliament for the enactment of the Budget Law.
19. GRECO observed that consideration has been paid to the issue of the recommendation, which aimed to ensure that the relevant institutions entrusted with the fight against corruption be perceived as sufficiently independent as regards their funding. Cyprus reminded that the initial budgetary proposals emanate from the individual institutions, and – as it was mentioned in the evaluation report – “in the present circumstances, there is no indication that the differences in formal protection have had an adverse effect in practice on the independence of the authorities in charge of the fight against corruption in Cyprus.”
20. GRECO concluded that this recommendation has been implemented satisfactorily.

Recommendation iv.

21. *GRECO recommended that the law should be amended to place civil servants under a clear obligation to report suspicions of corruption.*
22. The authorities of Cyprus reported that a bill amending the Public Service Law, which provides for the obligations and responsibilities of the civil servants, was enacted on 4 December 2003. According to the new Act, civil servants are now under a clear obligation to report to their superiors, their knowledge or suspicion that another civil servant is involved in acts of corruption, using his/her position in the Service. The report must be submitted in writing, giving all details of the case or suspicion.
23. GRECO welcomed the introduction of the reporting duty in Cyprus, a measure already in place in a number of other countries.
24. It concluded that the recommendation has been implemented satisfactorily.

Recommendation v.

25. *GRECO recommended that the police develop systems for an annual assessment of the threat posed by organised crime as a privileged user of corruption.*
26. *The authorities of Cyprus reported that they are aware that organised crime is a menace to contemporary society and a challenge to world order, both socially and economically. Evidence and statistics show that the crime rate in Cyprus remains at low levels, whereas organized criminal activities do not exist in large scales. Moreover, the economic and social impacts caused by organised criminal activities are not as serious as those experienced by other countries. In fact, in the last 10 years only few murders can be directly related to organised crime. The Cypriot authorities underlined that in the year 2002 there were no murders related to organised crime and that for this reason, it can be deduced that organised crime in Cyprus has not reached alarming dimensions. They also emphasize that the activities of the two small organised crime groups operating in Cyprus are restricted to the geographical area of the country and that there is no link or co-operation with any other illegal organised groups based overseas.*
27. *However, the Cyprus Police draft annual evaluation reports and assessments reporting on the general impact of organised crime in society. Concerning the threat posed by organised crime as a privileged user of corruption, the Cyprus Police have developed various methodologies including analysis and research in order to identify any specific trends or fluctuations, in crime recording. Since 2002, a specific questionnaire has been developed, which enables the recording of offences relevant to corruption. It is the responsibility of the investigating officer to complete and submit the questionnaire to CID Headquarters and from there to the Crime Analysis Unit for further treatment. Data is completed and analysed, and the results provide feedback to the authorities concerning the extent and trends of such offences. So far all cases recorded refer to domestic offences and no relationship has been established with organised crime.*
28. *GRECO took note of the information provided, which indicates that the activity of organised crime groups is subject to attention from the part of the Cypriot authorities and the police in particular. The latter have developed new methodologies which take into account the dimension of corruption in the modus operandi of organised crime.*
29. *GRECO concluded that this recommendation has been implemented satisfactorily.*

Recommendation vi.

30. *GRECO recommended that a particular effort should be made to raise awareness regarding the link between money-laundering and corruption and that guidance notes should be established for the recognition of suspicious transactions by accountants and lawyers.*
31. *The authorities of Cyprus reported that corruption offences are considered as predicate offences for the application of the anti-money laundering legislation. In the course of the training offered to all authorities and Institutions as well as professionals involved in the anti-money laundering efforts, the link between money laundering and corruption is always raised. Special attention is paid to the members of the police, especially those involved in the investigation of corruption and other serious forms of financial crime and a number of seminars are organised. Seminars have also been organised for members of the legal and accounting professions, explaining notably with practical examples the role of accountants in identifying corruption in the course of their business*

activities and their obligation to report such instances. Finally, interviews (published in the newspapers) are given on the subject by the authorities and public discussions take place within the relevant parliamentary committees.

32. Concerning the guidance notes for the recognition of suspicious transactions by accountants and lawyers:
- the Council of Ministers appointed the Council of the Bar Association and the Council of the Institute of Certified Public Accountants as the Supervisory Authorities for Lawyers and Accountants, respectively.
 - Guidance Notes have been prepared and will be circulated to these professionals after the enactment of the bill amending the anti-money laundering legislation (which is before the Parliament) for full compliance with the second EC Directive (2001/97/EC). The bill, among other aspects, specifies the obligations and responsibilities of lawyers and accountants for the purposes of the anti-money laundering preventive measures.
33. GRECO took note of the information provided and welcomed the efforts deployed, as well as the steps taken in favour of the involvement of accountants and lawyers in the preventive anti-money laundering mechanism (supported by the preparation of guidance notes which would raise their awareness on their new obligations). GRECO was furthermore informed that the draft amending the anti-money laundering legislation was adopted on 25.07.2003, shortly after the deadline for the submission of the RS-Report.
34. GRECO concluded that this recommendation has been implemented satisfactorily.

Recommendation vii.

35. *GRECO recommended the creation of appropriate links between the data-collection systems of the authorities mentioned above on the understanding, of course, that the sharing of information would be authorised by law and restricted to appropriate cases where the adverse effects of the intrusion of privacy will be counterbalanced by the gravity of the concerns about the risk of corruption.*
36. The authorities of Cyprus reported that this issue has already been discussed between law enforcement agencies and especially between the Unit for Combating Money Laundering (MOKAS) and the Cyprus Police. It was made clear that since in a few months time, different law enforcement authorities will be connected to the central government network, the different links between several departments would take place through this network. These departments will be connected with each other following an agreement concerning the level of information sharing. It should be noted that the provisions of the Data Protection Law, currently in force, will be taken into account for the above-mentioned purpose. The authorities confirmed that, although the size of the country and the level of centralisation already allows for flows of information, the desirable level of exchange of information has not been reached yet.
37. GRECO took note of the efforts accomplished by Cyprus to facilitate the sharing of information among various law enforcement bodies, in particular the FIU and the Police, through a central government network and the interconnection of these bodies. This will enhance the analytical capacity of the FIU as far as their work is concerned. On the other hand, the evaluation report has also pointed at the need for the police to have access to information/data from the Customs and Tax Departments (the recommendation relates to these institutions in particular) to facilitate the

work of the normal police units in charge of corruption cases; it remains unclear whether this issue will be taken into consideration within the framework of the current network project.

38. GRECO concluded that this recommendation has been partly implemented. It invited Cyprus to report back on the measures taken to facilitate the access of law enforcement agencies to fiscal information.

Recommendation viii.

39. *GRECO recommended that the restrictions on [the] use of electronic surveillance ("metering", telephone-tapping and other intrusions on privacy) should be relaxed to the extent permitted by Article 8 of the European Convention on Human Rights.*
40. The authorities of Cyprus recalled that according to the current legislation (Law No. 92 (I)/1996) such measures may be ordered by a court, on the application of the Attorney-General, only against persons who are under arrest or detention. The wider use of telephone tapping is not permitted in other instances, since such a measure would be contrary to the provisions of article 17 of the Constitution, which protects the secrecy of correspondence and any other communication. It should be mentioned that article 17 of the Constitution allows for interference in cases not only of convicted persons or persons under arrest, but also for business correspondence and communication of bankrupts during the bankruptcy proceedings.
41. in June 2003, the Council of Ministers has decided to take the necessary measures for the amendment of article 17 of the Constitution, in order to bring it into line with the relevant articles of the European Convention on Human Rights. This constitutional amendment will allow to amend the current legislation in this area.
42. The authorities of Cyprus further underlined that this amendment will be submitted to the Parliament together with other proposals for Constitutional amendments which will be deemed necessary for implementing in Cyprus certain legal instruments or provisions of the EU "*acquis communautaire*".
43. GRECO took note of the various projects of legal amendments (including as regards the Constitution) which would facilitate the application of the investigative means suggested in the recommendation. It welcomed these projects, which, for the time being, are at an early stage. GRECO took note that some time would be needed for Cyprus to incorporate the changes as part of a more general revision involving EU-related considerations.
44. It concluded that this recommendation has been partly implemented and invited Cyprus to report back on the developments under way, concerning this recommendation.

Recommendation ix.

45. *GRECO recommended that the system of complaints against police should be put to a real test to assess whether it can provide an appropriate response to credible complaints against corruption and that the authorities should examine the possibility of creating a specialised complaints-unit within the police, which would be surrounded with all the appropriate guarantees of independence.*

46. The authorities of Cyprus recalled that complaints against the Police are currently investigated on the basis of the provisions of the Police Law, Cap. 285, the Police Regulations, the Criminal Code, Cap. 154 and the Firearms Law 39/74. The Cyprus Police, however, has initiated new procedures in the investigation of complaints submitted against members of the Police and draft regulations for the establishment of the Police Internal Affairs Office have been prepared. The aim of this Office will be to maintain Police integrity, professionalism and fairness by investigating in an impartial way allegations of police offences and misconducts, as well as by expeditiously identifying and punishing misconduct within Police ranks.
47. This independent special police service would be answerable directly to the Chief of Police and headed by a high-ranking police officer appointed by the Minister of Justice and Public Order, upon a proposal by the Chief of Police. The new body's independence and impartiality would be scrutinized by a Supervision Council (consisting of the Minister of Justice and Public Order, the Attorney General of the Republic and the Chief of Police).
48. GRECO took note with satisfaction of this significant improvement and the measures taken to ensure the independence and impartiality of the Police Internal Affairs Office which would become operational in the near future (possibly in the beginning of 2004, once the relevant regulations are enacted).
49. It concluded that this recommendation has been partly implemented and it invited the authorities of Cyprus to report back on the implementation and possibly the functioning of the new Police Internal Affairs Office.

Recommendation x.

50. *GRECO recommended that the mandate of the audit office should be extended to cover a wider category of end users of public funds, including the political parties.*
51. The authorities of Cyprus reported that the mandate of the Auditor General of the Republic has been extended with Law No. 113(I)/2002 concerning the "Provision of Evidence and Information to the Auditor General".
52. The Law came into force on 12.7.2002 and Article 6 of the said law provides that the Auditor General has the authority to require any person or legal entity receiving a grant or guarantee or loan from the Consolidated Fund or any other public fund to furnish him with any evidence or information necessary to ascertain how the grant or guarantee or loan has been expended.
53. GRECO took note of this further significant and rather radical improvement, put into effect last year. It welcomed in particular that the scope of the Auditor General's control was extended to cover all possible categories of end users of public funds, and that he has a wide access to information.
54. GRECO concluded that this recommendation has been implemented satisfactorily.

III. CONCLUSIONS

55. In view of the above, GRECO concluded that recommendations i., iii., iv., v., vi. and x. have been implemented satisfactorily.

56. Recommendations ii.,vii., viii., and ix. have been partly implemented.
57. GRECO invites the Head of the delegation of Cyprus to provide additional information by 30 June 2005 on the progress of the implementation of recommendations ii.,vii., viii. and ix.