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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Cyprus

Adopted by GRECO
at its 47th Plenary Meeting
(Strasbourg, 7-11 June 2010)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Cyprus at its 27th Plenary Meeting (10 March 2006). This report (Greco Eval II Rep (2005) 3E) addressed 10 recommendations to Cyprus and was made public on 19 July 2006.
2. Cyprus submitted the Situation Report required under the GRECO compliance procedure on 14 November 2007. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC Report) on Cyprus at its 37th Plenary Meeting (4 April 2008). This last report was made public on 23 April 2008. The Compliance Report (Greco RC-II (2008) 1E) concluded that recommendations i, iv and vii had been implemented satisfactorily and recommendations ix and x had been dealt with in a satisfactory manner. Recommendations ii and vi had been partly implemented and recommendations iii, v and viii had not been implemented; GRECO requested additional information on their implementation. This information was provided on 27 October 2009 and was updated on 12 May 2010.
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 ii, iii, v, vi and viii in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation ii.

4. *GRECO recommended to make the Co-ordinating Body against Corruption place more emphasis in its work on problems of corruption in public administration and to give it a mandate to make proposals for a consolidated anti-corruption strategy for public administration.*
5. GRECO recalls that while the first part of this recommendation was implemented as the composition of the Co-ordinating Body Against Corruption had been enlarged to include representatives of the public administration, the second part of the recommendation (to give the Co-ordinated Body a mandate to propose anti-corruption strategies for public administration) had not been dealt with at the time of the adoption of the Compliance report.
6. The authorities of Cyprus now report that the Co-ordinating Body Against Corruption is not just an advisory body, it has also a mandate to develop and/or elaborate a consolidated anti-corruption strategy for public administration. The Council of Ministers, at a meeting on 14 January 2004 concerning the structure, work and tasks of the Co-ordinating Body Against Corruption, decided that this Body should meet every two months and that its main tasks would be the continual examination of the legislative and other measures related to the fight against corruption and the submission of proposals for taking more initiatives and measures of a legislative and/or other nature aimed at the fight against corruption, whenever and wherever this was considered to be necessary. The authorities stress that it is within this framework that the Co-ordinating Body works to develop its anti-corruption strategy in all areas, including that of public administration. Furthermore, as a result of its mandate, the new draft Code of Ethics on the Award of Public Contracts, prepared by the Treasury of the Republic, has, to a large extent, been discussed during the meetings of the Co-ordinating Body and a number of its proposals were taken into account when the text was being prepared.

7. The authorities have also submitted that as a result of GRECO's conclusions in the Compliance Report, the mandate of the Co-ordinating Body was re-examined, after which it was concluded that its current mandate - the Decision of the Council of Ministers of 14 January 2004 – provides a wide, but nonetheless clearly defined, range of powers and competences to the Co-ordinated Body sufficient for it to make proposals for a consolidated anti-corruption strategy in all areas of public administration.
8. GRECO takes the view that this recommendation should be seen in the light of the call for the formulation of an anti corruption strategy which was already made in GRECO's First Round Evaluation Report and repeated in the Second Round Evaluation Report (paragraph 80) in respect of the public administration, which was the particular focus in the latter report. In this context, it had been concluded that the Co-ordinating Body against Corruption would have been the appropriate organ for such work, provided that it had been more orientated towards public administration, which was not the case at the time of the adoption of the Evaluation report. With the inclusion of representatives of the public administration in the Co-ordinated Body, the authorities had met one concern raised in the current recommendation. On that basis and in the light of the additional information provided by the authorities for the present report, GRECO accepts that the rather wide mandate of the Co-ordinating Body can be considered to also cover public administration. Not least, the involvement of the Body in the drafting of ethical standards for public procurement is evidence of that. GRECO wishes to stress that the establishment of an overall anti-corruption strategy for public administration could well be a possible future task of this Body.
9. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

Recommendation iii.

10. *GRECO recommended to develop legislation on the right to access to information held by public authorities, to - subsequently - take measures to inform the public about their right to access information and to enhance transparency in public administration (including "e-government").*
11. GRECO recalls that in the Compliance Report it was concluded that this recommendation had not been implemented as the authorities had reported that no law regulated the entire area of access to public information, to complement the basic provisions in this respect contained in the Constitution. The authorities had also reported at the time that the situation described in the Evaluation Report had not changed and that the issue of any possible future legislation in the area would be examined in the light of the Council of Europe Convention on Access to Official Documents (CETS No. 205), which had not been adopted by the Council of Europe at the time.
12. The authorities of Cyprus again stress - as is already reflected in the Evaluation and Compliance Reports - that anyone may access public information which is not confidential and that the Constitution (Articles 19 and 29) provides that a request for information can be made directly to the competent authorities, which have the obligation to accede to the request within 30 days. In addition, the authorities refer to the following legislation aimed at protecting the right to information held by public institutions: the law on Public Access to Environmental Information of 2004 (L. 119(I)/2004) which is developed in the light of the EU Directive 2003/4/EC to provide, *inter alia*, for the obligation of public authorities to make information concerning the environment available, the law on the Re-Use of Public Sector Information of 2006 (L. 132(I)/2006) which is based on the EC Directive 2003/98 and provides for rules concerning the re-use of information which is held by public sector bodies, and the State Archives Law of 1991 (L. 208/91) which

provides for public access to records held by the State Archive and by all bodies which produce public records. Moreover, the authorities refer to legislation concerning employment and evaluation of staff in the public sector, radio communications and the conclusion of public contracts, which also aim, *inter alia*, at transparency.

13. The authorities also submit that almost all governmental bodies and departments have developed their own practices to enhance the right of the public to access information held by public authorities. For instance, all non confidential files held by the Archaeological Department and the Post Service, may be accessible to anyone, following the submission of a relevant application to the Director of the Department for approval. The same applies to the Ministry of Education. The authorities of Cyprus stress that almost all governmental bodies have taken measures to inform the public about their right to access information. The Ministry of Agriculture has its own website and has published a booklet named “the Chart of Citizen’s rights”. The Ministry of Interior informs the public about their right to access information through its own website. The Ministry of Health issued a booklet in 2008 on the rights of citizens, concerning medical care and also a booklet on the rights of patients. These institutions also publish information on their respective websites. Similar practices are followed by the Registrar of Companies and so on.
14. The authorities of Cyprus also refer to a series of legal texts, which have an impact on the development of e-government in Cyprus: the law on Certain Legal Aspects of Information Society Services, in Particular Electronic Commerce and Associated Matters of 2004; the Regulation of Electronic Communications and Postal Services Law of 2004; the Legal Framework for Electronic Signatures and Associated Matters Law of 2004 and the Law for the Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts and for Related Matters of 2006, which are all built on various directives of the EU/EC. Moreover, the authorities report that an illustrative picture of e-government in Cyprus is to be found at e-Government Fact sheet (“E-Government in Cyprus”), which contains, *inter alia*, information related to the relevant legislation and e-services for citizens and entities/business. Concerning e-government for citizens, there are services available in the areas of taxes and declarations, job seeking, social security; personal documents; car registration; building permissions etc.
15. GRECO takes note of the extensive information provided, which clearly shows that Cyprus has in place a wide range of legislation and regulations aimed at providing for general transparency in various sectors of public administration. GRECO is not in a position to assess and evaluate all the texts referred to, however, it notes that they did all exist at the time of the adoption of the Evaluation Report and that the situation since then has not changed. The information provided by the authorities indicates that e-government in Cyprus is rather developed in certain areas of public administration. GRECO also notes that the authorities have stated that a specific request for access to public information is to be made directly to any state institution on the basis of the Constitution (articles 19 and 29). This was also their position at the time of the adoption of the Evaluation Report and it was the lack of more detailed regulations to complement the very general rules of the Constitution in this respect that was criticised by GRECO. The legislation recommended by GRECO would apply in respect of all public institutions and provide detailed guidance to the general public, those who request information, and to representatives of the public institutions that decide whether to provide the information requested or not. Such legislation is not in place in Cyprus and the statement by the authorities “that almost all governmental bodies and departments have developed their own practices to enhance the right of the public to access information held by public authorities” further underlines the need for common standards, built on the Constitutional principles, that would apply in the same way in respect of all public institutions. GRECO recalls in this respect that the authorities had reported in

the Compliance Report that any future such instrument would be prepared in the light of the Council of Europe Convention on Access to Official Documents (CETS No. 205). (GRECO notes that the Convention was opened for signature/ratification on 18 June 2009 and that Cyprus has not yet signed the Convention.)

16. Nevertheless, GRECO takes the view that the new information submitted by the authorities that some legislation has long since been in place, and that measures relating to access to information (including e-government) have been taken, indicate a situation slightly improved in relation to that referred to in the Evaluation report.
17. GRECO concludes that recommendation iii has been partly implemented.

Recommendation v.

18. *GRECO recommended to establish regular training for all staff (permanent and temporary) on ethics in public administration.*
19. GRECO recalls that at the time of the adoption of the Compliance Report the authorities only provided training seminars to newly hired staff and that the Public Service Law on Ethics needed to be complemented with a Code of Ethics on the basis of which further training of staff would be established in the future. The recommendation was considered not implemented.
20. The authorities of Cyprus now report that training seminars on the existing provisions of the Public Service Law on Ethics in Public Administration, as well as the duties and obligations of civil servants are held in the Public Administration Academy. Such training is basically focusing on induction courses for newly employed civil servants, however, training is also being planned for temporary staff. Further training of all civil servants on ethics will be established upon adoption of the "Code of Ethics", which is planned to take place by the end of 2010. The authorities also submit that all public servants employed by the Citizens Service Centers ("CSC"), which were set up in Cyprus in 2006, have to undergo training according to the Code of Ethics of the CSC. Such training focuses on a wide range of issues and activities that are related to the function of the public sector and the provision of service to the general public. The authorities furthermore submit that a code of ethics for public officials who are working with public procurement was enacted on 13 May 2010. The latter code sets out guidelines and principles (including transparency and high standards of professionalism) which apply to all persons involved in the procedures and conclusion of public contracts in Cyprus.
21. GRECO takes note of the information provided. It welcomes that induction training is in place for civil servants and that temporary staff will also be part of such training. Furthermore, GRECO notes that a general Code of Ethics is underway and that such a code for public procurement has been adopted and that training will be built on these instruments. GRECO notes, however, that temporary staff (which according to the Evaluation Report were as many as 30 per cent of the total staff) are not yet part of the training and it appears that in-service training on a regular basis has not yet been developed.
22. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

23. *GRECO recommended to abolish the requirement that the initial reporting of corruption must be done in written form.*
24. GRECO recalls that according to the Public Service Law (L. 1/1990), civil servants are obliged to report to their superiors suspicions of corruption in the service. The fact that such reports must be made in written form was criticised in the Evaluation Report (paragraph 90) and led to the adoption of recommendation vi. GRECO also recalls that this recommendation had been discussed extensively in Cyprus by the Co-ordinating Body against Corruption as well as by the Public Administration and Personnel Service and the Civil Servants Association in the course of the compliance procedure. Following those discussions, the authorities had decided to maintain the requirement of written reporting as provided for in law. However, they had also indicated that during training of public employees it would be highlighted that in urgent cases the written form would not be necessary. GRECO had stressed in the Compliance Report that the measure taken was of an informal, administrative character and that the law remained the same. This constituted a contradiction that could generate problems in practice. GRECO was therefore not convinced that the measure taken would satisfy the objective of the recommendation, unless the law was amended accordingly. In conclusion, GRECO welcomed the decision to allow whistleblowers to report also orally where the circumstances so require. However, it invited the authorities of Cyprus to consider further the implementation of this recommendation, which was considered partly implemented.
25. The authorities of Cyprus now report that the issue of abolishing the requirement of reporting corruption in writing as provided for in the Public Service Law, has been re-examined by the authorities, which have again reached the conclusion not to amend the law for the following reasons. By virtue of the existing provisions of the Public Service Law, a person may give information about suspected corruption in writing without identifying himself/herself (anonymously), whereas in the absence of such a requirement, the identity of the whistleblower would be automatically revealed if such information were given orally. Moreover, the authorities claim that the system would be more open for misuse, if the requirement was abolished. Besides, the competent authorities have an obligation to act upon every report (whether written or oral). The authorities also stress that the General Audit Office has an obligation to investigate any written or oral complaint and/or report made to it and, furthermore, that the Police has introduced a direct phone line for the anonymous oral reporting of any suspected offence. Finally, the authorities reiterate that it is now the practice, during training seminars for public servants, to stress that in urgent cases they can avoid the written form of reporting, if they believe it is more appropriate under the particular circumstances to do so.
26. GRECO takes note of the arguments put forward by the authorities, which tend to repeat those reflected in the Compliance Report. GRECO does not challenge that there may be valid reasons for maintaining the requirement of written reports (for example to avoid misuse of the system). Neither does GRECO challenge the practical measure of allowing oral reporting in certain situations. However, as this measure has no legal basis and contradicts the legal provision contained in the Public Service Code, in particular, the interpretation of section 81(2) of the Public Service Law, which according to the authorities, implies that a report, whether written or oral, shall immediately be investigated by the Public Service Committee, GRECO maintains its previous position that the exception to the legal requirement of reporting in writing – a measure which has already been considered to comply partly with the recommendation – should preferably be formalised by law or in a regulation.

27. GRECO concludes that recommendation vi remains partly implemented.

Recommendation viii.

28. *GRECO recommended to strengthen the sanctions applicable to legal persons convicted of corruption offences with a view to making them more effective, proportionate and dissuasive.*
29. GRECO recalls that it was concluded in the Evaluation Report that the sanctions (exclusion from business, exceptional winding up) and fines that could be imposed on legal persons for corruption offences (up to the equivalent of 17 500 Euros) and for money laundering (up to the equivalent of 3 500 Euros) could not be considered effective, proportionate or dissuasive. In the subsequent compliance procedure, the authorities had reported that strengthened sanctions concerning money laundering would also affect the sanctioning of legal persons for corruption when that offence was committed in conjunction with money laundering. The authorities had also submitted that the sanctions for corruption offences would be reconsidered in the course of their foreseen ratification of the UN Convention against Corruption (UNCAC). GRECO considered the issue only with regard to corruption offences, in relation to which no changes had been reported, and concluded that recommendation viii had not been implemented.
30. The authorities of Cyprus now report that the UNCAC was ratified by Cyprus through law 25(III)/2008, which entered into force on 31 December 2008. Moreover, in order to strengthen the sanctions applicable to legal persons convicted of corruption, a draft law, which foresees fines in respect of legal persons of up to 200 000 Euros and, additionally, other measures such as ineligibility for state aid or exclusion from public tenders, has been submitted to Parliament.
31. GRECO welcomes the draft law aimed at strengthening the sanctions applicable to legal persons convicted of corruption. The measures reported are considerably stronger than the current sanctions. However, the draft legislation has not yet been adopted.
32. GRECO concludes that recommendation viii has been partly implemented.

III. CONCLUSION

33. In addition to the conclusions contained in the Second Round Compliance Report on Cyprus and in view of the above, GRECO concludes that recommendation ii has been dealt with in a satisfactory manner. Recommendations iii, v, vi and viii have been partly implemented.
34. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 10 recommendations issued to Cyprus, in total 6 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. GRECO expects that further positive developments can be signalled in the near future, in particular, in respect of measures that are underway to implement recommendations concerning the establishment of training of public officials and draft legislation.
35. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Cyprus. The authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations iii, v, vi and viii.
36. Finally, GRECO invites the authorities of Cyprus to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.