



Strasbourg, 15 May 2009

Public
Greco RC-II (2007) 2E
Addendum

Second Evaluation Round

Addendum to the Compliance Report on Denmark

Adopted by GRECO
at its 42nd Plenary Meeting
(Strasbourg, 11-15 May 2009)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Denmark at its 22nd Plenary Meeting (18 March 2005). This report (Greco Eval II Rep (2004) 6E), which contains 6 recommendations addressed to Denmark, was made public on 8 April 2005.
2. Denmark submitted the Situation Report required under the GRECO compliance procedure on 2 October 2006. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC Report) on Denmark at its 32nd Plenary Meeting (21 March 2007). This last report was made public on 29 November 2007. The Compliance Report (Greco RC-II (2007) 2E) concluded that recommendations iv, v and vi had been dealt with in a satisfactory manner. Recommendation i had been partly implemented and recommendations ii and iii had not been implemented; GRECO requested additional information on their implementation. This information was provided on 4 November 2008.
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 i, ii and iii in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to introduce clear rules/guidelines for situations where civil servants move to the private sector and to consider introducing guidelines with regard to sideline activities/outside employment, in order to avoid conflicts of interest.*
5. GRECO recalls that in the Compliance Report this recommendation was considered partly implemented as some measures to prevent conflicts of interest (confidentiality rules, disqualification provisions and requirements concerning sideline activities) had been referred to, while it was reported that further provisions concerning the issue of moving from the public to the private sector were yet to be introduced in a code of conduct for civil servants.
6. The Danish authorities now state that in June 2007, the Code of Conduct in the Public Sector was adopted and published by the State Employer's Authority. The Code applies to all employees of the public sector, including managers. Descriptions of the present rules on confidentiality, disqualification and sideline activities, including more detailed guidelines on how to avoid conflicts of interest as well as procedures for reporting etc. have been included in the Code of Conduct (available to GRECO). The authorities add that no particular problems have been experienced in the area of civil servants moving to the private sector, that a public sector employer can always release an employee from his/her particular duties should a situation of conflicting interests arise and that the duty of confidentiality applies during as well as after employment in the public sector.
7. GRECO is fully aware that the flow of personnel between the public and private sectors is encouraged in Denmark (as in many other countries) as it, for example, contributes to the development of staff competences and efficiency. GRECO takes the view that staff movements from public positions to the private sector may in certain situations result in conflicting interests and damage to the public sector. GRECO notes that rules on confidentiality, temporary disqualification of a public servant from participating in an administrative procedure based on conflicting interests as well as rules concerning sideline activities, contained in a range of

legislation/regulations such as the Public Administration Act, the Civil Servants Act and Circular 74 have now also been incorporated in a more “user friendly” way into the new Code of Conduct in the Public Sector, which is an important achievement in itself (further commented under recommendation ii below). GRECO notes, for example, that it has been highlighted in the Code of Conduct that confidentially rules apply during public employment as well as after such employment. However, these regulations were already in existence before, and the inclusion of them in the Code of Conduct serves only to present them in a more comprehensible format. Nothing new in substance has been reported in respect of the particular situation where a public official leaves a public function for a private sector position that may result in conflicting interests.

8. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

9. *GRECO recommended to adopt the ethical guidelines (Code of Conduct) for public administration which are under preparation as soon as possible.*
10. GRECO recalls that this recommendation was previously considered partly implemented as the draft Code of Conduct had not been adopted at the time.
11. The authorities of Denmark now report that the Code of Conduct in the Public Sector was adopted and published in June 2007. The Code had been prepared by the State Employer’s Authority in cooperation with various ministries, public employers’ and employees’ organisations. Following its adoption, the Code has been distributed to various public sector workplaces and a number of information activities have been carried out in order to raise the awareness of the Code in the public sector. These activities have included general and thematic meetings for managers and other employees and the Code is to be handed over to new public employees. The Code of Conduct is available on-line and can be downloaded from various websites, e.g. from the home page of the State Employer’s Authority, www.perst.dk. A summary edition of the Code has also been prepared in English for presentation purposes, meetings etc. Moreover, an e-learning programme to provide for training on the Code of Conduct is under construction by the State Employer’s Authority; the training programme is planned to be available as from the summer of 2009.
12. GRECO welcomes the adoption of the Code of Conduct in the Public Sector, which is an important achievement. The Code is a comprehensive document (38 pages in the Danish version), dealing with practical aspects pertaining to difficult situations that may arise in the public administration under different chapters, such as: “fundamental values and principles”, “authority to issue directions”, “freedom of expression”, “duty of confidentiality”, “impartiality” and “acceptance of gifts”. Each chapter contains a description of underlying principles and constitutional/legal aspects, supplemented with practical examples on how to act in certain situations as well as a summary of guidelines for public employees. GRECO sees this document as a good tool for the training of public employees and is pleased that following its distribution throughout the public administration, it has been the subject of information meetings. GRECO is pleased that the authorities are in the process of developing regular in-service training based on this Code and that such training may be continuously adapted to new developments within the Danish public administration.
13. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

14. *GRECO recommended to ensure that civil servants are aware of the possibility to report suspicions of corruption in public administration directly to the competent law enforcement authorities – i.e. even without previously informing their superior - and to ensure that civil servants who report such suspicions in good faith are adequately protected.*
15. GRECO recalls that this recommendation was considered not implemented in the Compliance Report as no concrete measures had materialised, neither in respect of the possibility for civil servants to report suspicions of corruption outside the public administration nor with regard to the protection of those who report such suspicions from reprisals.
16. The authorities of Denmark now indicate that the Code of Conduct in the Public Sector contains guidelines on how to handle suspicions of bribery offences (Chapter 6. “Acceptance of gifts etc”, Danish version, page 25). It is thus indicated that if a public employee gains knowledge of or reasonably suspects corruption, which involves the public administration, the management should immediately be informed and hereafter handle the situation. It is furthermore stated that, alternatively, the employee may contact the police or relevant control or supervisory authorities. In addition, the Code of Conduct contains a description of the public employees’ right to disclose information to external parties in case of illegal administration or other reprehensible circumstances in the public sector (Chapter 9. “The employee’s possibilities of reacting”, Danish version, page 37-38). External parties include for instance the media, supervisory authorities and the Parliamentary Ombudsman. In respect of the second part of the recommendation, it is stated in the Code of Conduct that lawful disclosure of information cannot result in negative managerial reactions (Chapter 9. “The employee’s possibilities of reacting”, Danish version, page 37).
17. GRECO takes note of the information provided and is satisfied that the new Code of Conduct in the Public Sector further clarifies that a public employee has the right to report suspicions of corruption to external parties, such as the police, the Parliamentary Ombudsman and the media, in addition to their obligation to report such suspicions within the public sector hierarchy. With regard to the second part of the recommendation (“whistleblower protection”), the Code of Conduct reiterates the principle that the lawful disclosure of a suspicion of corruption (e.g. disclosure in good faith) cannot result in negative managerial action against the reporting public employee. The awareness raising measures in respect of the Code of Conduct which have been carried out by the authorities are reportedly designed to ensure that public employees are aware of these principles. As was stated in relation to recommendation ii above, training programmes concerning the content of the Code should continuously be provided for.
18. GRECO concludes that recommendation iii has been implemented satisfactorily.

III. CONCLUSION

19. In addition to the conclusions contained in the Second Round Compliance Report on Denmark and in view of the above, GRECO concludes that recommendations ii and iii have been implemented satisfactorily. Recommendation i remains partly implemented.
20. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the six recommendations addressed to Denmark, in total five recommendations have now been implemented satisfactorily or otherwise been dealt with in a satisfactorily manner. As recommendation i remains partly implemented, GRECO urges the

authorities to continue their efforts in order to establish rules or guidelines to prevent certain situations which give rise to conflicting interests where public officials or employees move from the public to the private sector. Guidelines in this area appear to be particularly important in countries, like Denmark, where mobility between the public and the private sectors is encouraged.

21. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Denmark. The authorities of Denmark may, however, wish to inform GRECO of further developments with regards to the full implementation of recommendation i.
22. GRECO invites the Danish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.