

Strasbourg, 19 October 2007

**Public**  
**Greco Eval I (2005) 4E**  
**Addendum**

## **First Evaluation Round**

### **Addendum to the Final Overall Assessment Report on Georgia**

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

## I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Georgia at its 5<sup>th</sup> Plenary Meeting (11-15 June 2001). This report (Greco Eval I Rep (2001) 5E) was made public on 28 June 2001, following authorisation by the authorities of Georgia. The report contains 25 recommendations.
2. Georgia submitted the Situation Report required by GRECO's compliance procedure on 26 June 2003 and additional information on 7 and 20 November 2003. On the basis of these reports and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-Report) on Georgia at its 16<sup>th</sup> Plenary Meeting (8-12 December 2003) and concluded that two recommendations (ii and ix) had been implemented or dealt with in a satisfactory manner, 16 recommendations (i, iv, v, vi, vii, viii, x, xiii, xiv, xv, xvi, xix, xx, xxiii, xxiv, and xxv) had been partly implemented, and seven recommendations (iii, xi, xii, xvii, xviii, xxi and xxii) had not been implemented. GRECO decided to apply Rule 32 of its Rules of Procedure, regarding action in respect of non-complying members, and invited the Georgian delegation to provide regular reports to GRECO plenary meetings on the progress made towards the adoption of the measures required to comply with GRECO's recommendations. GRECO also agreed that an overall assessment of the measures introduced would be made in 2005. The RC-Report was made public on 27 April 2004.
3. At its 19<sup>th</sup> Plenary Meeting (28 June - 2 July 2004), GRECO designated Mr Ákos KARA, Head of the Hungarian delegation to GRECO, to act as Special Rapporteur in charge of preparing comments on the information concerning progress subsequently provided by the Georgian delegation to GRECO's plenary meetings.
4. GRECO adopted comments with regard to the progress reported by Georgia; the first Comments were adopted at its 20<sup>th</sup> Plenary Meeting (27-30 September 2004, Greco Eval I (2004) 6 rev), Comments II at its 21<sup>st</sup> Plenary Meeting (29 November – 2 December 2004, Greco Eval I (2004) 8E) and Comments III at its 22<sup>nd</sup> Plenary meeting (14-18 March 2005). On 9 September 2005 Georgia submitted a progress report to GRECO for its overall assessment on the implementation of the outstanding recommendations of the First Evaluation Round and on 5 October 2005 some additional information.
5. GRECO adopted an Overall Assessment of the information provided by the delegation of Georgia (Greco Eval I (2005) 4 Rev) at its 25<sup>th</sup> Plenary Meeting (10-14 October 2005). However it was not in a position to conclude the non-compliance procedure under Rule 32 of its Rules of Procedure as recommendations i, iv, xv, xx, xxi, xxiii and xxiv had still not been addressed in a satisfactory manner.<sup>1</sup> GRECO therefore invited the Georgian delegation once again to submit additional information regarding the implementation of these recommendations. The additional information was submitted on 17 February 2006. GRECO examined this information (Greco Eval I (2006) 1 English only) at its 27<sup>th</sup> Plenary (6-10 March 2006) as well as an opinion on this matter prepared by its Special Rapporteur, Mr Ákos KARA (Hungary) (Greco Eval I (2006) 2E). GRECO expressed disappointment about the lack of progress reported by the Georgian authorities and decided to proceed to the second stage of the non-compliance procedure, in conformity with Rule 32, paragraph 2, al. (ii) of GRECO's Rules of Procedure. Georgia was once more urged to submit additional information regarding the implementation of First Round recommendations i, iv, xv, xxiii and xxiv to the Executive Secretary by 31 March 2006. This information was provided by Georgia on 31 March 2006 and further supplemented on 2 May 2006.

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<sup>1</sup> GRECO decided not to request any further information on the implementation of recommendations vi-viii and x-xiii, on the understanding that the issues to which these recommendations pertained would be examined more in-depth during GRECO's Second Evaluation Round (Theme II '*Public Administration and Corruption*').

6. The Final Overall Assessment Report (Greco Eval I (2005) 4E) was adopted by GRECO at its 29<sup>th</sup> Plenary Meeting (19-23 June 2006) and made public on 22 August 2006 following authorisation by the Georgian authorities. It terminated the First Evaluation Round non-compliance procedure in respect of Georgia. GRECO invited the head of delegation of the Georgian delegation to submit additional information regarding the implementation of recommendation xxiv, and on the involvement of civil society in the process of implementing the Anti-Corruption Strategy and related Action Plan by 30 June 2007. Georgia provided the requested additional information on 29 June 2007.

## II. **ANALYSIS**

### **Involvement of civil society**

7. The authorities of Georgia recall that, to streamline the carrying out of the March 2006 Action Plan for the implementation of the National Anti-Corruption Strategy, an Implementation Group (comprising deputy ministers from all the agencies involved in the Action Plan) and a system for reporting was established (by which ministries report on the state of implementation of the Action Plan to the State Minister on Reforms Co-ordination). This reporting system was said to have resulted in a network of responsible and well-informed high-ranking officials acting *inter alia* as focal points, which facilitated the co-ordination of complex reforms and public outreach activities. Using this network, two reports (i.e. a mid-term and an annual report) were elaborated by the Office of the State Ministry on Reforms Co-ordination. The reports were submitted to the Cabinet of Ministers and subsequently to the President, and made public on the website of the Government of Georgia and the Office of the State Ministry on Reforms Co-ordination. The reports describe the state of implementation of the Action Plan and also assess the strengths and weaknesses of various measures taken in the context of the Action Plan, identifying further areas for improvement.
8. More specifically as regards the involvement of civil society in this process of implementing the Anti-Corruption Strategy and related Action Plan, drafts of the abovementioned reports on the state of implementation of the Action Plan were discussed at two conferences. The first conference in December 2006, organised with the support of the Council of Europe, focused on implementation of the Action Plan and on ways to improve its format and structure. Interested parties and civil society representatives (Transparency International, Young Lawyers Association, Young Economists Association, Liberty Institute, Open Society Georgia etc.) participated in the conference. Comments and recommendations by the various parties, both orally and in writing, were reflected in the abovementioned implementation reports, where appropriate, and also contributed to the drafting of a new National Anti-Corruption Strategy and the 2007-2008 Anti-Corruption Action Plan. At the second conference, in April 2007, organised with the support of the American Bar Association and USAID, the drafts for the updated National Anti-Corruption Strategy and the 2007-2008 Action Plan were presented to civil society and the public. Both documents draw on lessons learned from the current Strategy and (2006-2007) Action Plan and incorporate recommendations by civil society and Council of Europe experts. The new Anti-Corruption Strategy was also presented at various workshops held in Tbilisi in June 2007, organised by the U4 Anti-Corruption Resource Centre, the NGO Tiri and the Georgian chapter of Transparency International. In May 2007 the government approved the new Anti-Corruption Action Plan, which was subsequently signed by the President in July 2007.

9. GRECO notes with satisfaction what would appear to be ample involvement of civil society in monitoring the implementation of the Anti-Corruption Strategy and related Action Plan as well as its participation in the process of elaborating a new Anti-Corruption Strategy and Action Plan. This is an important step towards achieving general acceptance of anti-corruption policies and their effective implementation. GRECO welcomes in particular the elaboration of the updated Anti-Corruption Strategy and adoption of the 2007-2008 Action Plan and very much hopes that the current anti-corruption momentum will be maintained.

**Recommendation xxiv.**

10. *GRECO recommended the drawing up of guidelines containing criteria to be applied when deciding on requests for lifting of immunities, ensuring moreover that decisions are based on the merits of the request submitted by the Public Prosecutor.*
11. In the RC-report this recommendation was considered as partly implemented as new rules on the procedure with regard to the lifting of immunities had not been adopted by Parliament at the time.
12. In its Overall Assessment of October 2005, GRECO considered the adoption of amendments to the “Regulations of the Georgian Parliament” in February 2004, which clarify the steps to be taken and time limits to be respected (etc.) with regard to the lifting of immunities of Members of Parliament, an important achievement. However, GRECO pointed out that the recommendation called for guidelines to ensure that decisions are based on the merits of the request submitted by the Prosecution Office, rather than political considerations. As no information had been provided in this respect, GRECO concluded that this recommendation could still not be considered as fully implemented.
13. In the Final Overall Assessment of June 2006, GRECO took note of subsequent information provided by the authorities of Georgia according to which the immunity of two parliamentarians, who were members of a party with a majority in parliament, was lifted in 2005, after they were apprehended *in flagrante delicto*, which in the authorities’ view demonstrated that the procedure for lifting immunities of members of Parliament was working properly. GRECO however considered that it could not infer from this information that the need for guidelines containing criteria for the lifting of immunity no longer existed.
14. The authorities of Georgia now report that - in addition to the reduction of the range of persons enjoying immunities and the introduction of the possibility to detain persons enjoying immunity when caught *in flagrante delicto*, which was reported on as regards recommendations xxii and xxv in the Final Overall Assessment of June 2006 – amendments to the Regulation of the Parliament of Georgia and the law on the Status of a Member of Parliament of Georgia entered into force in March 2007. These amendments abolish the need for the consent of parliament for the commencement of a criminal investigation against a member of parliament. Before the entry into force of these amendments the Prosecutor General could only start an investigation into actions of a member of parliament once consent from parliament was obtained<sup>2</sup>. As of March 2007 – i.e. after the entry into force of the amendments to both the Regulation of the Parliament and the law on the Status of a Member of Parliament – the Prosecutor General may launch a criminal investigation of a member of Parliament upon ‘immediate notification’ of the parliament. Consequently investigative activities with the exception of search of the member of parliament,

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<sup>2</sup> Before the parliament would give its consent or deny the request to lift the immunity of a parliamentarian, the matter would first be considered by the Committee for Procedural Issues and Standards, which would submit its conclusion to the Bureau of the parliament, only after which the parliament would decide in plenary session on the request.

his/her residence, car or work place, which (as well as arrest, detention and prosecution) still need consent of the parliament may be carried out without the need to lift the immunity of the member of parliament in question. If there is subsequently a need to detain, arrest or search the member of parliament, his/her residence, car or work place, the Prosecutor General is to apply to parliament. The parliament - after consideration of the matter by the Committee for Procedural Issues and Standards within 5 days and submission of the conclusion of the Committee to the Bureau of the parliament – may decide by parliamentary decree, supported by a majority of parliamentarians present but no less than a third of the total number of parliamentarians, to lift the immunity of the member of parliament in question.

15. Furthermore, Article 71, paragraph 6, of the Criminal Code provides that the statute of limitation will be suspended for the period during which a person enjoys immunity. Consequently, if a member of parliament commits a crime and his/her immunity is not lifted, the statute of limitation only starts running from the moment s/he no longer enjoys immunity and not from the moment of commission of the crime.
16. Finally, the authorities of Georgia report that in the current legislative period (since 2004) the immunity of 6 members of parliament (4 parliamentarians of the ruling party and 2 of an opposition party) was lifted. In this legislative period no request of the Prosecutor General for the lifting a parliamentarian's immunity was denied.
17. GRECO takes note of the information provided by the authorities of Georgia. Although it seems that guidelines as originally envisaged by GRECO have not been adopted, it would appear that the practical need for such guidelines has further diminished with the most recent amendments to the Regulation of the Parliament and the law on the Status of a Member of Parliament. In light of these improvements (including those already highlighted in GRECO's Final Overall Assessment) and in view of the fact that in the current legislative period no request for the lifting of immunity has been denied and in the absence of evidence suggesting that decisions on lifting immunities will not be decided on the merits of a request submitted by the Prosecutor General – GRECO concludes that recommendation xxiv has been dealt with in a satisfactory manner.

### **III. CONCLUSION**

18. In view of the foregoing comments, GRECO concludes that recommendation xxiv has been dealt with in a satisfactory manner. Furthermore, civil society appears to have been adequately involved in the process of monitoring the Anti-Corruption Strategy and related Action Plan. More generally, GRECO wishes to acknowledge that the Georgian authorities have made laudable efforts over the last few years to come to grips with corruption and to design sound anti-corruption policies. In this context, GRECO also trusts that the authorities will implement the recommendations addressed to Georgia in its Second Round Evaluation Report (Greco Eval II Rep (2006) 2E) – on which they are to report back by 30 June 2008 – in an appropriate and timely manner.
19. The adoption of this Addendum to the Final Overall Assessment terminates the First Evaluation Round compliance procedure on Georgia.
20. Finally, GRECO invites the authorities of Georgia to translate this Addendum into the national language and to make the translation public.