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First Evaluation Round
Compliance Procedure
Georgia

**Final Overall Assessment of Information
provided by the Delegation of Georgia
pursuant to Rule 32, para 2, al. (i)
of GRECO's Rules of Procedure**

Adopted by GRECO
at its 29th Plenary Meeting
(Strasbourg, 19-23 June 2006)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Georgia at its 5th 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 16th 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 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 19th 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 20th Plenary Meeting (27-30 September 2004, Greco Eval I (2004) 6 rev), Comments II at its 21st Plenary Meeting (29 November – 2 December 2004, Greco Eval I (2004) 8E) and Comments III at its 22nd 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 25th 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.¹ GRECO therefore invited the Georgian delegation 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 27th Plenary (6-10 March 2006) as well as an opinion on this matter prepared by its Special Rapporteur for the First Evaluation Round Compliance Procedure on Georgia, 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

¹ 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'*).

by 31 March 2006. This information was provided by Georgia on 31 March 2006 and further supplemented on 2 May 2006.

6. The present report contains a Final Overall Assessment based on written information submitted by Georgia under GRECO's specific non-compliance procedure (Rule 32 of GRECO's Rules of Procedure), as updated in light of the additional information submitted by Georgia, and a plenary debate on the implementation of the outstanding recommendations addressed in GRECO's First Round Evaluation Report to Georgia.

II. **ANALYSES**

Recommendation i.

7. *GRECO recommended the swift adoption of a comprehensive national anti-corruption strategy, defining priorities for action, associating all agencies involved and raising awareness among public officials and the general public about the danger entailed by corruption and the need to cooperate with law-enforcement authorities in the detection, investigation and gathering of evidence in corruption cases.*
8. GRECO recalls that it noted in the RC-report that although various measures in different sectors with a view to better combating corruption had been reported by the Georgian authorities, a clear, effective and comprehensive National anti-corruption strategy was lacking. Moreover, GRECO called for measures to raise the awareness of the dangers of corruption and concluded that the recommendation was only partly implemented.
9. In its Overall Assessment of October 2005, GRECO welcomed the Anti-Corruption Strategy, which was adopted in June 2004, and the fact that this Strategy had been developed with the involvement of civil society and international organisations. GRECO also concluded that although much progress was reported, the final adoption of the Action Plan would be necessary in order to comply with recommendation i.
10. The authorities of Georgia now report that the Action Plan for the implementation of the Anti-Corruption Strategy, with updated information regarding the deadlines and agencies responsible for the implementation of the measures contained therein, was officially adopted by Presidential Decree #155 on 28 March 2006. Most activities are foreseen to be implemented in 2006 and 2007 and some are scheduled to be implemented in 2008. The Action Plan will be updated every year.
11. GRECO takes note of the information provided by the Georgian authorities. It welcomes the official adoption of the Action Plan. In light of its previous consideration that the timetables of the Action Plan appeared to be over-optimistic, GRECO is pleased to note that deadlines for the implementation of the activities foreseen have been revised.
12. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

13. This recommendation has been dealt with in a satisfactory manner (see RC-report).

Recommendation iii.

14. *GRECO recommended the implementation of proper complaints procedures for submitting complaints, advising on the reaction and informing on possible compensation.*
15. GRECO recalls that it stated in the RC-report that recommendation iii had not been implemented as the Georgian authorities did not report on any complaints procedures, but rather on channels for reporting misconduct (etc.) to the authorities (i.e. "hot-lines", etc.).
16. In October 2005, the authorities of Georgia informed GRECO that two sets of procedures for challenging administrative acts exist: "*administrative complaints*" and "*administrative lawsuits*". This follows from the General Administrative Code (GAC) and the Administrative Procedures Code (APC), which entered into force on 1 January 2000 (i.e. prior to the Evaluation visit).
17. According to the GAC, the State is responsible for damage inflicted by a state or local authority. Moreover, an administrative act shall include reference to where and within which time limit a complaint against the act shall be filed. Administrative complaints are cost-free and may only be filed against individual acts or *de facto* activity of the administrative body, by the party concerned and not against normative acts. A complaint suspends - as a main rule - the execution of the challenged decision/act and should be reviewed within one month. Compensation for damage may be claimed in a "lawsuit", in accordance with the Rules of the GAC, the APC and the Civil Code.
18. In its Overall Assessment of October 2005, GRECO took note of the new information provided and accepted that complaints mechanisms are in place to challenge decisions or acts by administrative bodies in Georgia. Consequently, the recommendation had in fact already been complied with at the time of the evaluation and GRECO regrets that this information was not provided to the GET at the time of its visit in Georgia. GRECO was not in a position to assess the efficiency of the system described within the present compliance procedure, but recalled that GRECO's Second Evaluation Round is particularly devoted to corruption in public administration (Theme 2) and that this question will be further explored within that framework.
19. GRECO concludes that recommendation iii has been dealt with in a satisfactory manner.

Recommendation iv.

20. *GRECO recommended the establishment of a co-ordination mechanism involving all agencies and departments involved in the prevention, detection, and investigation of corruption. This unit should co-ordinate anti-corruption policies and measures, control their effectiveness and follow-up the implementation of the anti-corruption strategy. It should also, as a matter of priority, establish a centralised database to capture, inter alia, all strategically relevant corruption intelligence, case progress and prosecution statistics.*
21. In the RC-report, GRECO concluded that recommendation iv had only been partly implemented as the establishment of a co-ordination mechanism, which GRECO considered as the core of this recommendation, had not been completed at the time.
22. In its Overall Assessment of October 2005, GRECO could still not conclude that a proper co-ordination mechanism as referred to above had been set up.

23. The authorities of Georgia now report that the Presidential Decree #155 of 28 March 2006), by which the Action Plan for the implementation of the National Anti-Corruption Strategy has been adopted, also provides for the establishment of a co-ordination mechanism. It requires all agencies mentioned in the Action Plan to establish internal work programmes for the implementation of the measures set out in the Action Plan and to establish a working group within their respective agency to co-ordinate the implementation of these work programmes. Representatives of the various agencies mentioned in the Action Plan take part in a so-called 'Co-ordination Group', in which they report on the progress made in carrying out their internal work programme for the implementation of the Action Plan. The Co-ordination Group works under the direct supervision of the Office of the State Minister on Reform Co-ordination. To this end, the Statute of the State Minister has been amended and now provides that the State Minister will be responsible for the development of anti-corruption policies and monitoring the implementation of these policies (including the Action Plan). As regards the final part of the recommendation, the authorities of Georgia report that a centralised database containing corruption intelligence, prosecution statistics and information on the progress of corruption cases has been set up within the General Prosecution Office.
24. GRECO takes note of the information provided by the Georgian authorities and wishes to stress in particular that, with the establishment of the implementation strategy for the Action Plan, a multi-layered co-ordination mechanism has come into existence which has the potential of facilitating the implementation of the Action Plan.
25. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation v.

26. *GRECO recommended making use of the Information Agency on Property and Financial Declarations (IAPFD) as a source of information to be used in a pro-active way to detect and investigate possible corruption cases.*
27. GRECO recalls that this recommendation was considered as only partly implemented in the RC-report as the organisation of the IAPFD at the time was under consideration and that its information was used by other agencies only to a limited extent.
28. In October 2005, the authorities of Georgia reported that the IAPFD was formally established by an Order of the Minister of Justice (# 810) on 14 July 2004, with reference to the "Law on Conflicts of Interests and Corruption in the Civil Service". They also reported that all data of the IAPFD is open to the public and usually monitored by the media. The authorities added that the IAPFD has to submit cases to the Prosecutor's Office when discrepancies between incomes and declared assets are discovered. They also indicated that the Prosecution service systematically uses the IAPFD's information in criminal investigations.
29. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

30. *GRECO recommended to put in place procedures to support managers to identify, prevent, challenge and deal with corrupt, dishonest and unethical behaviour - such procedures should include education, training, prevention and enquiry.*

31. In the RC-report recommendation vi was considered as only partly implemented as the preparation of laws on a General Inspection system and on a Code of Ethics (etc.) was still at the drafting stage.
32. In October 2005, the authorities of Georgia reported that every Governmental institution has an internal inspection, which is a tool for the head of the administration to detect violations within the institution. They also reported that the elaboration of a draft law on the General Inspection system was not yet completed; the overall aim being to establish a system for the control of public officials working in different institutions, to conduct performance audits and to investigate complaints from the public. Furthermore, the preparation of codes of ethics is under the responsibility of each department and the authorities reported that such codes exist in the Ministries of Finance, Interior, Culture and Sports. Other ministries are reportedly in the process of developing similar codes of ethics. Moreover, the Law on Public Service provides that civil servants are tested once every three years. This is connected to training courses organised internally as well as by external bodies; NGOs, international organisations, etc.
33. GRECO took note of the new information provided. Although some progress could be seen, GRECO found that this area is still to a large extent under development and was of the opinion that the information submitted did not allow GRECO to change its previous conclusion.
34. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii.

35. *GRECO recommended to envisage the introduction of some form of independent audit of departments strictly related to integrity measures (for heads of departments and staff) which could take the form of a “coordinating council” comprising State officials and NGOs.*
36. In the RC-report this recommendation was considered as partly implemented given that the measures reported (integrity tests for the law enforcement, sporadic assessments of the administration by NGO's and international organisations and the establishment of advisory and consulting bodies in co-operation with the non-governmental sector) were not seen as a sufficiently comprehensive audit of all departments.
37. In October 2005, the authorities of Georgia reported that Public Councils may be set up by an order (a normative act) of the head of an institution and that Public Councils have been established in the Ministries of Finance, Defence, Culture, Justice, Labour, Health, Interior, Education and in the Security Council. Preparation for more such Councils is underway. The authorities also reported that representatives of NGOs as well as public officials take part in the Councils.
38. GRECO took note of the information provided. Although some progress was reported, GRECO could not, in the absence of more detailed facts (concerning the independence of the Public Councils and the plans for their wider implementation in public administration), conclude that this recommendation was more than partly complied with. Accordingly, it maintained its previous conclusion.
39. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

40. *GRECO recommended to establish rigorous selection criteria and to conduct robust vetting checks in order to ensure integrity of all those recruited for public service, particularly those called to occupy sensitive positions. Law enforcement and judicial authorities should be subject to particularly rigorous recruitment procedures.*
41. GRECO recalls that in its RC-report this recommendation was considered as only partly implemented as the criteria for the selection and recruitment of public officials were individualised and under the responsibility of heads of departments and, accordingly, differed from one institution to another. Consequently, GRECO called for generalised criteria in this respect.
42. In October 2005, the authorities of Georgia referred to the Law on Public Service, according to which appointments to a post (new recruits) have to be effected with due regard to results of a competition; the holding of competitive examinations must also be published in a newspaper (Article 29). Moreover, in accordance with Article 33 of the same Law, there is a “contest attestation commission” (trade union representatives and independent experts) which is responsible for assessing the results and the conformity with the vacant post. These rules apply to civil servants, except for judges, prosecutors and police officers, for whom specific criteria apply.
43. The authorities added that in addition to the formal criteria required to become a prosecutor or a judge, criminal convictions or dismissal from other services would disqualify an applicant. Moreover, the recruitment of traffic police officers has become extremely transparent and is even broadcast on television, in order to deal with the problem of a high level of corruption within this particular profession.
44. GRECO welcomed the improvements reported with regard to the various selection criteria for the Public Service in order to provide for fair recruitment and the information provided on the transparency of the recruitment process. However, the recommendation also requires ‘robust vetting checks’ of the individuals applying for posts in the public service. As hardly any concrete information had been provided with regard to this part of the recommendation, GRECO could not find that this recommendation had been fully complied with.
45. GRECO concludes that recommendation viii has been partly implemented

Recommendation ix.

46. This recommendation has been dealt with in a satisfactory manner (see RC-report).

Recommendation x.

47. *GRECO recommended the introduction of Codes of Conduct in all Government Departments and Agencies, using the Model Code drawn up by the Council of Europe and included in the Committee of Ministers Recommendation R(2000) 10 as inspiration. Furthermore, that all public officials receive training in Codes of Conduct and other applicable integrity/ethics rules and regulations relating to their employment.*

48. GRECO recalls that this recommendation was considered partly implemented in the RC-report as Georgia had reported on the draft Code of Ethics, which already existed at the time of the evaluation visit.
49. In October 2005, the authorities of Georgia did not provide any new information with regard to this particular recommendation.
50. GRECO - also taking into account what has been reported by the authorities with regard to Recommendation vi - maintained its previous conclusion.
51. GRECO concludes that recommendation x has been partly implemented.

Recommendation xi.

52. *GRECO recommended that all Government Departments and Agencies introduce internal inspection units.*
53. GRECO recalls that this recommendation was considered not implemented in the RC-report despite the Georgian position that there were (already at the time of the evaluation visit) internal inspection units in all governmental institutions, as no supporting legislation had been provided. The authorities claimed in the Compliance Procedure that a draft “Law on General Inspections” was being elaborated within the Ministry of Justice, but it was not made available to GRECO.
54. In October 2005, the authorities of Georgia stressed once again that there are internal inspection units in all ministries. They stated that these units are regulated by the statutes of each relevant ministry and that the “Law on General inspections” is only needed for their general standardisation.
55. GRECO could not see any progress reported with regard to this Recommendation. No regulations on internal inspection units were provided.
56. GRECO concludes that Recommendation xi has not been implemented.

Recommendation xii.

57. *GRECO recommended the introduction in all departments and agencies of external monitoring councils in line with the proposal elaborated by the Ministry of Tax Revenue.*
58. GRECO recalls that this recommendation was considered as not implemented in the RC-report as no external monitoring bodies had been established.
59. In October 2005, the Georgian authorities referred to the setting up of Public Councils in various departments (as detailed in the reply to recommendation vii) and stressed that no more bodies were envisaged for the monitoring of departments.
60. GRECO took note of the information provided but did not see that the Public Councils would be in line with the recommendation to introduce *external* monitoring, such as elaborated by the Ministry of Tax Revenue and as described in the Evaluation Report (see Greco Eval I Rep (2001) 5 Final, page 16). GRECO therefore maintained its previous conclusion.

61. GRECO concludes that Recommendation xii has not been implemented.

Recommendation xiii.

62. *GRECO recommended to continue co-operation with NGOs in the form of a more structured dialogue.*
63. GRECO recalls that this recommendation was considered partly implemented as the few examples given on NGO co-operation with the public administration were not seen as part of a structured dialogue.
64. In October 2005, the authorities of Georgia emphasised that co-operation between governmental and non-governmental organisations is standing practice in various sectors. Above all, NGOs (such as Transparency International) were active in the drafting of the National Anti-Corruption Strategy of Georgia. Furthermore, NGOs have been involved in the monitoring of Presidential and Parliament elections, in the drafting of legislation, such as the law on the Press, the Criminal Code and the Code of Criminal Procedure, the Tax Code, etc. NGOs are also actively involved in reforms of the Ministries of Education and Health and in the monitoring of Social Security and Pension Funds, prisons, etc.
65. GRECO welcomed the progress reported with regard to NGO involvement in various sectors and activities of public administration. It was particularly pleased that the Anti-Corruption Strategy was established in co-operation with representatives of civil society. As the implementation of the Strategy (the Action Plan) is of such crucial importance for Georgia's future fight against corruption, GRECO considered it important to give civil society (including relevant NGOs) a clear role in this process to the extent possible. However, no information to this effect had been provided by the Georgian authorities. Consequently, GRECO maintained its previous conclusion.
66. GRECO concludes that recommendation xiii has been partly implemented.

Recommendation xiv.

67. *GRECO recommended to consider the formation of an independent specialised anti-corruption investigation unit. All law-enforcement and other authorities would be required to report to this unit any suspicions of corrupt behaviour. Cases of corruption, as soon as identified during a preliminary investigation would also be transmitted to the unit, which would continue and deepen the investigation to the extent necessary to bring charges. The creation of this special unit would also allow a better collection and analysis of data relating to corruption and would enable the preparation of accurate statistics to assist future strategy and policy enhancement.*
68. In the RC-report GRECO had expressed the view that the reported creation of a special service dealing with cases of corruption within the Prosecutor's Office was in line with this recommendation, however, it concluded that the recommendation was only partly implemented as additional information was needed.
69. In October 2005, the authorities of Georgia provided additional information: the Special Service of Criminal Prosecution of Legalisation of Illegal Incomes, is a distinct unit within the Prosecutor General's Office, established by Order #31 (10 October 2003) of the Prosecutor General. The staff (nine prosecutors, one economist and two computer experts) of this Unit have the authority to carry out investigations and prosecutions. It deals with cases of money laundering as well as

predicate offences, such as bribery, abuse of power etc. In order to assist the Special Service of the Prosecutor's Office in its operations, a special service on combating illegal incomes was established in the Ministry of Internal Affairs.

70. GRECO recalled that recommendation xiv was initially aimed at establishing a specialised investigation unit within the Police, whereas recommendation xix (below) deals with the establishment of a specialised body within the Prosecutor's Office. However, GRECO had already taken a preliminary position with regard to the implementation of the present recommendation in the RC-report and accepted that a specialised body - with investigative functions - had been established in the Prosecutor General's Office. GRECO noted in this respect that a specialised service in the Ministry of the Interior (Police) had been set up as a supporting body; the co-ordination between prosecution and police is crucial in the fight against corruption.
71. GRECO concludes that recommendation xiv has been implemented satisfactorily (See also recommendation xix).

Recommendation xv.

72. *GRECO recommended to select the Head and staff of the above-mentioned unit [i.e. Specialised Anti-Corruption Unit] with the greatest care to ensure their highest integrity. It also recommended that the unit be open to independent scrutiny and produces an annual progress report of its activities to be made available to the general public.*
73. In the RC-report this recommendation was considered as only partly implemented, mainly with regard to the lack of a reported independent scrutiny over this body.
74. In its Overall Assessment of October 2005, GRECO took note of the information provided on the special recruitment procedures for the staff of the Specialised Anti-Corruption Unit. GRECO also took the view that as the Unit was placed in the Prosecutor General's Office, its monitoring could not differ much from that of ordinary services of the Prosecutor's Office. GRECO furthermore considered that an annual report of its activities would be of great interest, not least from the perspective of the wider public.
75. The authorities of Georgia now report that the Head and Deputy Head of the Specialised Anti-Corruption Unit, as well as prosecutors and experts employed in this unit, are selected through a special procedure. In the first phase of this procedure, applicants are interviewed by a commission, consisting of civil servants, representatives of governmental bodies and NGOs. In the second phase, the persons who have passed the interview undergo additional tests.
76. The authorities of Georgia furthermore report that the prosecution service annually issues a progress report on its activities. This report contains a special chapter on the investigation, prosecution and adjudication of corruption offences, which includes information on the activities of the Specialised Anti-Corruption Unit. This report is made available to the public on the web-site of the prosecution service.
77. GRECO takes note of the information provided by the Georgian authorities. It would appear that the staff of the Specialised Anti-Corruption Unit are now selected with appropriate care and that information on the activities of the Specialised Anti-Corruption Unit is made available to the public.

78. Consequently, GRECO concludes that recommendation xv has been dealt with in a satisfactory manner.

Recommendation xvi.

79. *GRECO recommended that the above-mentioned unit [i.e. Specialised Anti-Corruption Unit] should be pro-active and have a legal basis for requiring information, assistance and cooperation from all Governmental Departments and bodies. The unit should also be empowered to make use of special investigative techniques available in the Georgian legal system with due respect to constitutional and legal safeguards and establish close working relations with the specialised unit which is recommended to be created within the Prosecutor's Office.*
80. GRECO recalls that this recommendation was considered only partly implemented in the RC-report as there was no information provided with regard to the pro-active role of the Unit.
81. In October 2005, the authorities of Georgia reported that the Specialised Anti-Corruption Unit is considered efficient and that it has established an active co-operation with pertinent Governmental bodies, ministries and the National Bank, etc. It operates under the rules of the Criminal Code of Procedure and receives information without any problems. According to a Joint Order of the Ministries of Finance and Internal Affairs and the Prosecutor General (Order #9-M of 30 January 2004), the operative services under these Ministries are obliged to immediately submit information to the Unit upon its request.
82. GRECO took note of the information provided. Although it is difficult to assess to what extent the Special Unit operates in a pro-active way, GRECO was pleased that it has apparently been given special powers to request information from other institutions. Moreover, the special unit has the same powers as any other prosecution service to use special investigative techniques under the Code of Criminal Procedure or other relevant legislation.
83. GRECO concludes that recommendation xvi has been dealt with in a satisfactory manner.

Recommendation xvii.

84. *GRECO recommended that the equipment necessary for implementing new investigative techniques be made available to the bodies in charge of investigating corruption offences and specifically to the specialised independent unit which could be created in pursuance of the recommendation made above.*
85. GRECO recalls that this recommendation was not considered implemented in the RC-report and further information was requested.
86. In October 2005, the authorities of Georgia reported that the legal basis for the use of special investigative techniques, such as telephone tapping, video recording, etc. can be found in the Law on Operational and Detective Activity (1999- N 14(2)). They stated furthermore that all operative investigating law enforcement bodies have at their disposal the necessary equipment to use the measures regulated in the above-mentioned law. Moreover, the authorities have emphasised that the Special Service for Illegal Incomes of the Prosecutor General's Office has its own premises and that it possesses all necessary office and investigative equipment to carry out its functions and that the Unit provides systematic training of its staff in order to increase their skills. Modern equipment has, *inter alia*, been provided through foreign assistance programmes.

87. GRECO noted that this recommendation was targeted to the provision of relevant equipment to law enforcement bodies rather than the legal bases for the use of such measures. It was pleased that the Special Service in the Prosecutor's Office appears to be well equipped.
88. GRECO concludes that recommendation xvii has been dealt with in a satisfactory manner.

Recommendation xviii.

89. *GRECO recommended to establish a mechanism for testing the accuracy of income declarations made by public officials (reiterating its recommendation dealing with the Information Agency on Property and Financial Declarations of Public Officials).*
90. GRECO recalls that it considered this recommendation as not implemented as no new mechanism had been established and requested additional information.
91. In October 2005, the authorities of Georgia reported that the Law on Conflicts of Interest and Corruption in Governmental Bodies was amended in February 2004. One of the amendments was that a person who is about to be appointed to a Governmental body cannot be appointed before s/he has made a property declaration to the Information Agency on Property and Financial Declarations of Public Officials (IAPFD). Moreover, the declaration also covers family and close relatives and the burden of proof with regard to "unfounded property" lies with the declaring person, i.e. s/he has to substantiate the origin of the property. This system is aimed at obtaining more precise information.
92. GRECO welcomed the reported legislative amendments with regard to declarations of property to the IAPFD, which it believed may contribute to enhancing the accuracy of such declarations. The report from Georgia did not mention any measures in respect of the testing mechanism within the IAPFD; however, the measures reported appear to have the same overall objective, i.e. to facilitate the testing of the correctness of declarations.
93. GRECO concludes that recommendation xviii has been dealt with in a satisfactory manner.

Recommendation xix.

94. *GRECO recommended the creation of a unit within the Prosecutor's Office, dedicated solely to deal with corruption cases, with a more active role in the anti-corruption strategy e.g. through initiation of criminal procedures on the basis of the declarations of public officials. Special training programmes for prosecutors and investigators focused on corruption issues, as well as training on their ethical duties, should also be provided*
95. GRECO recalls the establishment of the Special Service of Criminal Prosecution of Legalisation of Illegal Incomes within the Prosecutor General's Office by Order #31 (10 October 2003) of the Prosecutor General. Further details are included under Recommendation xiv.
96. GRECO concludes that recommendation xix has been implemented satisfactorily (See also recommendation xiv)

Recommendation xx.

97. *GRECO recommended to undertake the necessary measures to ensure an adequate level of remuneration for prosecutors, to establish fair and objective disciplinary proceedings for prosecutors, to guarantee access to a satisfactory grievance procedure and to specify the conditions and the safeguards applicable to cases where the superior prosecutor overrules decisions taken by the prosecutor in charge of the case.*
98. In the RC-report this recommendation was considered as partly implemented as prosecutors' salaries had increased by some 55 per cent. Further information was requested with regard to the other components of the recommendation.
99. In its Overall Assessment of October 2005, GRECO took note of the information provided by the authorities of Georgia according to which the salaries of prosecutors were comparatively high and would continue to grow in 2006. It concluded that the first part of the recommendation had been complied with. GRECO took the view that the information provided on disciplinary proceedings did not change its previous concerns (with regard to the power of the Prosecutor General to directly render decisions on disciplinary issues against prosecutors, including their removal from office). GRECO was furthermore informed on the issue of overruling decisions by supervising prosecutors, that if a subordinate prosecutor disagrees with a supervising prosecutor's written decision in a given case s/he may submit a written proposal to revise this decision. Although GRECO accepted that this written procedure provided extra safeguards, it noted that no explanation had been given regarding in which situations the decision to overrule a subordinate prosecutor may be taken. GRECO concluded that this recommendation had been partly implemented.
100. The authorities of Georgia now report, with regard to disciplinary proceedings, that pursuant to Article 37, paragraph 16, of the Law "On the Prosecutors Office", disciplinary action against prosecutors can be taken subject to review by a court within a period of 30 days after the decision has been made. With regard to the authority of a supervising prosecutor to annul or change a subordinate prosecutor's decision, the authorities report that the basis for such a decision may be the fact that the subordinate prosecutor's decision is manifestly illegal. Furthermore, the Criminal Procedure Code decisions to annul or change the subordinate prosecutor's decision can be appealed to a senior prosecutor.
101. GRECO takes note of the information provided by the authorities of Georgia. With regard to disciplinary proceedings, it appears that the Prosecutor General still has the power to directly render decisions on disciplinary issues against prosecutors. In this respect, GRECO would have welcomed further information on efforts made to improve the proceedings for taking disciplinary measures against prosecutors, to ensure that these proceedings are fair and objective, in particular whether a detailed and comprehensive procedure on disciplinary issues, as mentioned in the First Round Evaluation Report (paragraph 130) has been established. Nevertheless, by providing for a possibility of judicial review of the decisions on disciplinary actions against prosecutors further guarantees for the fairness of disciplinary proceedings have been established. Overall, GRECO considers that the aforementioned written procedure and the possibility of appeal to a more senior prosecutor appear to offer useful safeguards against abuse of authority by supervising prosecutors.
102. GRECO concludes that recommendation xx has been dealt with in a satisfactory manner.

Recommendation xxi.

103. *GRECO recommended to ensure the adequate protection of witnesses and collaborators of criminal justice, who report and provide the evidence which is necessary for the conviction of perpetrators of corruption offences.*
104. GRECO recalls that this recommendation was considered not implemented.
105. In its Overall Assessment of October 2005, GRECO welcomed the fact that the development of a witness protection programme was included in the National Anti-Corruption Strategy and the Action Plan. However, no concrete steps for designing such a programme had been taken.
106. The authorities of Georgia now report that a new provision (Article 109) has been introduced in the Code of Criminal Procedure (by Order #2265 of 16 December 2005), which allows the court (on application of a prosecutor) to order special measures – such as physical protection of a person and concealment of his/her identity – to protect participants in criminal proceedings. The prosecution service may also on the basis of the same article take measures to temporarily or permanently relocate a person participating in criminal proceedings, to change his/her appearance and to ensure physical protection. Article 109, paragraph 1, subparagraph 8 of the Code of Criminal Procedure provides that expenses related to such measures will be borne by the state.
107. GRECO notes the recent amendments made to the Criminal Procedure Code, which have the potential - if used to their fullest extent - of enhancing the protection of witnesses and other participants in criminal proceedings.
108. GRECO concludes that recommendation xxi has been dealt with in a satisfactory manner.

Recommendation xxii.

109. *GRECO recommended amending the provision of Article 48 of the Organic Law on the Public Prosecutor's Office to the effect that prosecutors should examine anonymous reports on corruption as a source of information, despite the fact that, in the absence of additional corroborating sources, anonymous reports could not, on their own, form a sufficient basis for the opening of a formal investigation.*
110. GRECO recalls that this recommendation was considered not implemented as implementation was only under preparation.
111. In October 2005, the authorities of Georgia referred to Article 263.2 of the Criminal Procedural Code (as amended on 25 March 2005 (#1204)) which reads: "*Anonymous reports shall not serve as grounds for the initiation of criminal proceedings. Such reports may be checked by means of operations –detective measures.*" Moreover, the authorities stated that in practice, anonymous reports concerning corruption are always re-examined by an order of the Prosecutor's Office.
112. GRECO was of the opinion that Article 263.2 of the Criminal Code clarifies that anonymous reports on corruption must not be disregarded in the investigation. On the contrary, if such a report is supported by evidence, it may ultimately lead to prosecution. GRECO also found it noteworthy that a prosecution cannot be solely based on an anonymous report.

113. GRECO concludes that recommendation xxii has been dealt with in a satisfactory manner.

Recommendation xxiii.

114. *GRECO recommended to amend national legislation in order to reduce the categories of persons who enjoy immunity from criminal proceedings, in particular, to abolish the immunities provided for the candidates to members of Parliament.*
115. GRECO recalls that this recommendation was considered partly implemented as draft legislation was still under preparation at the time of the adoption of the RC-report.
116. In its overall assessment of October 2005, GRECO welcomed the reduction of the categories of persons enjoying immunity from criminal proceedings and took note of the statement by the Georgian authorities that it was considered premature to abolish the immunities of election candidates. It also noted that the new Article 9 of the Code of Criminal Procedure provided that "(...) 2) a special procedure for obtaining a consent for bringing to trial, arresting and applying other measures of legal coercion to a member of Parliament of Georgia, a member of the Constitutional Court of Georgia, a member of the Supreme Court of Georgia and a judge of other general courts of Georgia, chairman of the Control Chamber of Georgia, the Public Defender (Ombudsman) of Georgia, a person enjoying diplomatic immunity, also a representative of an international criminal court enjoying immunity in exercising his authority in accordance with the international criminal law court charter is prescribed by the Constitution, international treaties and agreements and other laws of Georgia. 3) The application of privileges and immunities by the persons indicated in section 2 above in order to evade criminal liability is inadmissible." However, as the authorities had failed to provide a clear overview of the legislation applicable, GRECO was not in a position to conclude that the recommendation had been implemented properly.
117. The authorities of Georgia now provide an overview of the applicable legislation, which indicates that the following categories of persons continue to enjoy immunity in Georgia: Members of Parliament, members of the Constitutional Court, members of the Supreme Court, judges of other (general) courts, the chair of the Control Chamber, the Public Defender (Ombudsman), persons enjoying diplomatic immunity, representatives of an international criminal law court and election candidates. Apart from the abolition of the immunities of Members of Parliament of the Adjarian and Abkhazian autonomous republics, the Public Defender (Ombudsman) and members of the Constitutional Courts of these republics, the most notable change is the abolition of the immunity of members of the so-called Collegiums at the Prosecutor General's Office: the Prosecutor General of Georgia, the deputies of the Prosecutor General of Georgia, the head of the investigation department, the Prosecutors General of the autonomous republics and the Prosecutor General of Tbilisi no longer enjoy immunity. With regard to the immunities of election candidates, the authorities of Georgia report that the situation remains unchanged. Pursuant to Article 102 of the Election Code, candidates to Parliament cannot be detained, arrested or searched without the consent of the Central Election Committee (except for cases in which an election candidate has been caught *in flagrante delicto*), before official publication of the final results of the election by the Central Election Commission and the final decision on the election of a candidate to Parliament. The authorities of Georgia have reported that they are not planning to review these provisions before conducting local elections at the end of 2006, due to their domestic and international commitments (*inter alia* to the Council of Europe) to conduct elections in a fair, impartial and free manner. The Georgian authorities have reported that they strongly believe that - for the time being and under the current circumstances - immunity of election candidates contributes to achieving this aim in emerging democracies such as Georgia.

118. GRECO takes note of the information provided by the Georgian authorities. The list of persons enjoying immunities has been reduced. With regard to the immunities provided for election candidates, GRECO notes that this issue has been considered by the Georgian authorities. GRECO understands that a move to abolish the immunities provided to election candidates at this particular point in time could be interpreted as an attempt by the government to influence the coming local elections.
119. In light of the particular situation referred to above, GRECO concludes that recommendation xxiii has been dealt with in a satisfactory manner.

Recommendation xxiv.

120. *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.*
121. 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.
122. 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 had been partly implemented.
123. The authorities of Georgia now report that 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*’. In the authorities’ view this demonstrates that the procedure for lifting immunities of members of Parliament is working properly.
124. GRECO takes note of the information provided. However, GRECO cannot infer from this information that guidelines containing criteria for the lifting of immunity have now been drawn up. The two examples concerning ‘*in flagrante delicto*’ situations referred to above do not indicate that the need for such guidelines no longer exists.
125. In light of the above, GRECO concludes that recommendation xxiv has been partly implemented.

Recommendation xxv.

126. *GRECO recommended to abolish the requirement of the authorisation of the body concerned where the offender is apprehended “in flagrante delicto”.*
127. GRECO recalls that this recommendation was also considered partly implemented as new regulations were underway but not adopted at the time.
128. In October 2005, the authorities of Georgia reported that on 24 April 2004, the Georgian Constitution was amended, Article 52, paragraph 2, to make it possible to detain or arrest a member of Parliament (MP), provided s/he is caught “*in flagrante delicto*” and arrested on the

spot. However, Parliament must be notified on the fact of the detention. The MP should be immediately released if Parliament does not express its consent. According to paragraph 2 of Article 61 of the Constitution of Georgia, in case of detention of the MP in the period between sessions, a special session may be convoked with a view to considering the issue of his/her immunity. The authorities added that prior to these changes, law-enforcement bodies had no right to detain or arrest an MP, without prior consent of Parliament. The authorities reported that in 2005, there were two cases when the Prosecutor General detained MPs on the spot, in which Parliament consecutively promptly lifted the immunity.

129. GRECO welcomed the changes reported and was pleased to note that there is information which suggests that the current system is working properly.

130. GRECO concludes that recommendation xxv has been implemented satisfactorily.

III. CONCLUSIONS

131. **In view of the above, GRECO concludes that Georgia has implemented satisfactorily or dealt with in a satisfactory manner more than half of the recommendations contained in the First Round Evaluation Report.** Recommendations i, v, xiv, xix, xxv have been implemented satisfactorily. Recommendations ii, iii, iv, ix, xv, xvi, xvii, xviii, xx, xxi, xxii and xxiii have been dealt with in a satisfactory manner. Recommendations vi, vii, viii, x, xiii and xxiv have been partly implemented and recommendations xi and xii have not been implemented.

132. It should be recalled that recommendations vi-viii and x-xiii concern measures pertaining to *public administration*. Some progress in this area has been reported since the non-compliance procedure in respect of Georgia started. Moreover, issues relating to the recommendations have been included in the Action Plan of the Anti-Corruption Strategy. This is without doubt a step in the right direction. In its Overall Assessment of October 2005, GRECO agreed not to request any further information on the implementation of these recommendations within the framework of the current First Round Compliance procedure, it being understood that these issues will be examined more in-depth during GRECO's Second Evaluation Round –Theme II (*Public Administration and Corruption*).

133. Leaving aside the recommendations referred to in the previous paragraph, it would be fair to say that since the First Round Evaluation Report has been adopted – and despite the disappointingly slow pace of implementation of the recommendations during the first years after the adoption of the evaluation report – sufficient progress appears to have been made by the Georgian authorities in the areas under consideration, so as to allow GRECO to formally terminate the non-compliance procedure in respect of Georgia. That said, GRECO must urge the Georgian authorities to pursue their anti-corruption efforts in a vigorous manner and, above all, to implement the Anti-Corruption Strategy and the related Action Plan. In this connection, GRECO stresses the need for the active involvement of civil society in this process.

134. The adoption of the present Overall Assessment terminates the First Evaluation Round non-compliance procedure in respect of Georgia. GRECO invites 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 (on the understanding that issues relating to the implementation of recommendation vi-viii and x-xiii will be examined in-depth in the context of GRECO's Second Evaluation Round).

135. Considering the relevance of the matters under consideration and the importance of the information contained in this report for all anti-corruption stakeholders and civil society, GRECO urges the authorities of Georgia to authorise publication of the report as soon as possible.