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Second Evaluation Round

Compliance Report on Iceland

Adopted by GRECO
at its 30th Plenary Meeting
(Strasbourg, 9-13 October 2006)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Iceland at its 19th Plenary Meeting (28 June – 2 July 2004). This report (Greco Eval II Rep (2003) 7E) was made public by GRECO, following authorisation by the authorities of Iceland, on 19 August 2004.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Iceland submitted their Situation Report (RS-report) on the measures taken to implement the recommendations on date.
3. At its 26th Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Bosnia and Herzegovina and Denmark to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Vjekoslav VUKOVIC on behalf of Bosnia and Herzegovina and Mr Fleming DENKER on behalf of Denmark. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The objective of the RC-Report is to assess the measures taken by the authorities of Iceland, to comply with the recommendations contained in the Evaluation Report.

II. ANALYSIS

5. It was recalled that GRECO in its Evaluation Report addressed six recommendations to Iceland. Compliance with these recommendations is dealt with below.

Recommendation i.

6. *GRECO recommended to enlarge the scope of the provisions on confiscation of instrumentalities and proceeds of crime and consider reviewing the burden of evidence necessary in various situations to provide for better possibilities to use confiscation effectively in cases of corruption; in particular with regard to situations where no conviction is possible (in rem confiscation) and when the property is held by a third party.*
7. The authorities of Iceland report that the Ministry of Justice has requested its Permanent Committee on Criminal Law to consider this recommendation and the Committee is expected to present its conclusions during the second half of 2006.
8. GRECO notes that the implementation of recommendation i is still under consideration within the Government. It urges the Icelandic authorities to implement recommendation i as soon as possible.
9. GRECO concludes that recommendation i has not been implemented.

Recommendation ii.

10. *GRECO recommended to establish a general code of conduct/ethics, based on an overall strategy against corruption in public administration at all levels and to introduce appropriate training on public ethics on a permanent basis.*
11. The authorities of Iceland emphasise that the establishment of codes of ethics cannot be done without taking into account the existing environment of the public administration in Iceland and

the variety of different categories of public officials who are differently employed and who carry out different types of functions. Various principles of the administration are contained in pertinent legislation, such as the Public Officials Rights and Obligations Act (No. 70/1996) and in other more general legislation, such as the Penal Code, the Administration Code and the Information Law. As a result of its commitment to the work of the OECD and the Council of Europe, Iceland has listed essential points concerning public officials' good management, professionalism and conduct and to some extent situations of conflicts of interest. With regard to the particular issue of corruption prevention, the Ministry of Finance has issued a Circular (15 February 2006) on the general considerations and values that public officials are expected to observe in the execution of their work. This Circular is based on written and unwritten legal principles regarding the work of public officials and clarifies the obligations of public officials in their work, concerning situations of conflicting interests such as gift givings. The Circular has been made public on the Internet and sent to the heads of all public institutions. It has also been recommended to introduce the Circular to all public officials, in particular in the introductory training of new recruits. In addition, it is intended that the rules and their underlying principles will be presented at seminars which are open regularly to public officials. The authorities further report that it has been suggested to all directors of individual government bodies that they investigate the need to issue special codes of ethics for particular institutions. It is envisaged that such rules would include further detailed rules on employees' conduct.

12. GRECO welcomes the progress reported. It agrees that ethical rules must comply with the particularities of the public administration and that ethical codes should be "living" documents which evolve over time. It considers that Iceland has entered into an important process which will contribute to a more articulated overall anti-corruption strategy with the issuing of ethical guidelines throughout public administration. Moreover, specific guidelines will hopefully be developed at departmental level in the future. GRECO encourages the speeding-up of this process which should preferably be accompanied by clear directives concerning both initial and in-service training.

13. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

14. *GRECO recommended that appropriate rules for situations of conflicts of interest, such as gift giving and when public officials move from the public to the private sector, be considered.*

15. The authorities of Iceland report that the aforementioned Circular concerning general guidelines contains rules regarding gift giving practices. Furthermore, directors of public bodies have been instructed to make a special assessment of the need for further rules relating to conflicts of interest and to take into account the particular circumstances in these individual bodies. The authorities further report that situations of public officials moving from the public to the private sector will be considered.

16. GRECO notes that the Circular referred to in paragraph 11 includes guidelines regarding gifts to public officials. Concerning the second part of this recommendation, the Icelandic authorities will consider thoroughly how to deal with conflicts of interest arising from public officials moving from the public to the private sector.

17. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

18. *GRECO recommended to introduce clear rules and training for public officials to report unlawful, improper or unethical acts, including corruption in public administration and to enhance the system of protection for those who report such misconduct.*
19. The authorities of Iceland report that the Circular, referred to in paragraph 11, on the general considerations and values that public officials are expected to observe in the execution of their work includes an obligation for a public official to report any misconduct (including acts of corruption) s/he comes across in his/her work to appropriate authorities. Appropriate authorities would include the head of an institution, the ministry concerned or, where applicable, the National Audit Office or the Police. The authorities further report, that in order to protect those who report misconduct, the Circular also states that public officials who give information in good faith on corruption offences, or other unlawful or improper activities, will not suffer in any way for doing so.
20. GRECO takes note of the information provided and concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

21. *GRECO recommended to strengthen the controlling functions of the Registry of Enterprises with regard to pertinent information on legal persons in the registration process.*
22. The authorities of Iceland report that this recommendation is still under consideration as it is not entirely clear whether there is sufficient legal basis for strengthening the controlling function of the Registry of Enterprises.
23. GRECO takes note of the information provided and regrets that no progress regarding recommendation v appears to have been achieved until now.
24. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

25. *GRECO recommended to consider the possibility of establishing bans on business activities for physical persons, following conviction for serious offences, such as corruption.*
26. The authorities of Iceland report that this recommendation has been considered by the Government which has come to the conclusion that Article 66 of the “Act on Public Limited Companies” and Article 42 of the “Act on Private Limited Companies” sufficient in this respect. According to these articles “*members of the Board of Directors or Managers shall have legal capacity and may not during the past three years have in connection with business operations been subject to a Judgment for a punishable act according to the Penal Code or Acts respecting Public Limited Companies, Private Limited Companies, book-keeping, annual accounts, bankruptcies or official charges.*”
27. GRECO takes note of the new information provided and concludes that recommendation vi has been dealt with in a satisfactory manner.

III. CONCLUSIONS

28. **In view of the above, GRECO concludes that Iceland has implemented satisfactorily or dealt with in a satisfactory manner one third of the recommendations contained in the Second Round Evaluation Report.** Recommendation iv has been implemented satisfactorily, recommendation vi has been dealt with in a satisfactory manner, recommendations ii and iii have been partly implemented and recommendations i and v have not been implemented.
29. GRECO invites the Head of the Icelandic delegation to submit additional information regarding the implementation of recommendations i, ii, iii and v by 31 May 2008.