

Strasbourg, 2 July 2004

**Public**  
**Greco RC-I (2004) 6E**

## **First Evaluation Round**

### **Compliance Report on Lithuania**

Adopted by GRECO  
at its 19<sup>th</sup> Plenary Meeting  
(Strasbourg, 28 June – 2 July 2004)

## **I. INTRODUCTION**

1. GRECO adopted the First Round Evaluation Report on Lithuania at its 8<sup>th</sup> Plenary Meeting (4-8 March 2002). This Report (Greco Eval I Rep (2002) 1E) was made public by GRECO, following authorisation by the authorities of Lithuania, on 17 April 2002.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Lithuania submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 2 January 2004.
3. At its 13<sup>th</sup> Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Estonia and Ireland to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Ülle RAIG on behalf of Estonia and Mr Henry MATTHEWS on behalf of Ireland. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The RC-Report was adopted by GRECO, following examination and debate pursuant to Rule 31.7 of the Rules of Procedure, at its 19<sup>th</sup> Plenary Meeting (28 June - 2 July 2004).
5. Under Article 15 para. 6 of the GRECO Statute and Rule 30.2 of the Rules of Procedure, the objective of the RC-Report is to assess the measures taken by the authorities of Lithuania and, wherever possible, their effectiveness in order to comply with the recommendations contained in the Evaluation Report.

## **II. ANALYSIS**

6. It was recalled that GRECO in its Evaluation Report addressed 10 recommendations to Lithuania. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

7. *GRECO recommended to promote research on corruption with a view to developing a precise picture of the corruption situation in the country and in particular institutions affected and to develop the collection of data and statistics on corruption.*
8. The authorities of Lithuania have reported that as a consequence of the recommendation it has been decided that surveys on corruption shall be carried out every year. Accordingly, the Government allocated funds to the Special Investigation Service (SIS) in 2002 for a sociological survey, "Map of Corruption in Lithuania: 2002", which was carried out in co-operation with Transparency International, the main objective being to determine the level of corruption, institutions mostly affected and to identify causes and mechanisms against corruption. The Lithuanian authorities have submitted detailed information on the outcome of this survey.
9. Moreover, surveys are being carried out within certain law enforcement bodies, such as the SIS, the Anti-Smuggling Division of the Customs, Intelligence Division of the State Border Guard Service and the State Security Department. Close co-operation has been established between certain businesses and state institutions, which to some extent deal with corruption-related problems. Lithuanian law enforcement bodies have in this way received information and analytical material from for example multinational companies established in Lithuania on their particular problems with corruption. Surveys on corruption are also conducted by international organisations

(including NGO's) in Lithuania, sometimes funded by other states. A particular survey, conducted by the OECD, on corruption in the health sector and with regard to licensing was carried out in 2002, involving more than 10.000 inhabitants and 150 entrepreneurs and 30 working groups. This survey is considered the most representative of its kind concerning underlying causes of corruption.

10. As to the collection of data and statistics, the Lithuanian authorities have reported that activities are carried out in order to improve and expand 1) the database on all crime statistics (including corruption-related crimes) as well as 2) the statistical database on corruption-related crimes.
11. On 8 May 2003, the new *Instruction on Centralised Record on Criminal Acts, Persons who Committed Criminal Acts and Aggrieved Persons* was approved by the Minister of the Interior. Since 1 May 2003, the new *Statistical File, No. 50, on Aggrieved Natural Person or Legal Entity (Civil Claim)*, has come into effect and since 2004, the Ministry of the Interior plans to develop statistical reports concerning *Data on Aggrieved Persons by Criminal Acts*.
12. Moreover, data on criminal acts, persons who committed criminal acts and aggrieved persons are transferred to the newly-developed database, *Polis*. On 1 July 2003, the *Law on Legal Protection of Personal Data* was adopted. It gives the Ministry of the Interior the task of overall management of centralised data. Other managers include various law enforcement bodies, such as the Police, State Border Guard, Customs and the Prosecution Service.
13. Finally, it has been reported that the SIS Prevention and Monitoring Division stores and analyses data and statistics on corruption-related offences. Since 2002, the SIS has expanded this also to cover data on the pre-trial process, which is widely consulted for reports to the Seimas, the President's Office and to the wider public (media).
14. GRECO took note of the information provided and concludes that recommendation i. has been implemented satisfactorily.

#### **Recommendation ii.**

15. *GRECO recommended to reconsider the overall responsibility for the co-ordination of anti-corruption policies, with the view to establishing a specific body or, alternatively, to entrust an existing body with this responsibility and to consider the possibilities of strengthening anti corruption preventive measures, in order to strike a good balance between preventive and repressive measures.*
16. The authorities of Lithuania have reported that with a view to implementing this recommendation, the Government established on 3 February 2003 the Commission for the coordination of the Fight against Corruption and approved its objectives and rules of procedure. This interdepartmental body is in charge of the implementation of the National Anti-Corruption Programme (approved by Parliament in 2002), deals with strategic anti-corruption issues, coordinates activities of the State and the municipalities with regard to corruption prevention and makes proposals to public agencies. The Commission has the right to obtain the necessary information from authorities and may invite agencies to its meetings. It is at present chaired by the Minister of the Interior.
17. With regard to the second part of the recommendation concerning strengthened anti-corruption preventive measures, the authorities have reported that more than 70 per cent of the National Anti-Corruption Programme contains preventive measures. Moreover, the Law on Corruption

Prevention, adopted on 28 May 2002, provides the main principles and aims of corruption prevention (to disclose and eliminate causes of corruption, to deter corruption, to involve the public in preventive measures, to promote transparency, etc). The law also lists the key agencies responsible for corruption prevention.

18. Moreover, in 2002, a Corruption Prevention Department was established in the SIS. This Department has developed a corruption preventive education curriculum for secondary schools and has organised a large number of preventive activities, in cooperation with international organisations and NGO's (cf. EC-Phare, Transparency International, etc) targeting secondary schools, (10 major towns and 37 schools), journalists on investigative journalism and senior public officials.
19. GRECO took note of the information provided and concludes that recommendation ii. has been implemented satisfactorily.

### **Recommendation iii.**

20. *GRECO recommended to improve the transparency of public authorities vis-à-vis media and the wider public, in particular, with regard to access to public documents and information.*
21. The authorities of Lithuania have reported a number of measures taken to improve the transparency of public authorities on the basis of the legislation in this area which was adopted already by 2000, in particular the Law on the Right to Obtain Information from State and Local Government. On 31 December 2002, the Government approved the Position Paper on E-government. This legal act shaped major guidelines for the creation of e-government (a new organisational infrastructure of public services and a new environment for the adoption of political decisions) and set the priorities in this area. While implementing this, the Government will try to create a flexible and optimal structure of public administration, increase the direct influence of the society on political decisions by means of information technologies. In the near future, according to the Action Plan for the implementation of e-government concept paper, multiple changes will be made in the service sector in the field of information management and decision-making.
22. The project "Creation of the Government Electronic Gate" was launched in 2003, its purpose being to unite all the Lithuanian state authorities into one system of official information management, thus enabling easier and faster access to information and providing public administration services online. Furthermore, on 18 April 2003 the Government approved the General Requirements for Websites of State Institutions, which is the legal basis for creating and updating such websites. Most institutions have their own web sites.
23. Moreover, a major objective of the Government has been to develop conditions for the public to acquire qualifications and experience in using information technologies and to provide equal access to information sources via information technologies. Within this context, the Government encourages co-operation among businesses and public institutions, for example, through the initiative, "Window to the Future" which has contributed to the development of a public Internet centres network. In December 2003, the Ministry of the Interior undertook the commitment to open 100 public Internet centres in the course of 2004. The Ministry of Education and Science has joined the initiative in 2004. The Authorities have also referred to existing data bases on the Internet, such as "Infolex" and the Seimas' site which provide legal information. The authorities have furthermore stated the activities of public procurement have become easier to access via

Internet. The authorities have also referred to a number of on-going projects with the same purpose.

24. Finally, the Authorities have mentioned that the Draft Code of Ethics (see recommendation iv.) for Public Officials contains rules which to a large extent obliges them to inform and to assist the public in accessing information.
25. GRECO took note of the information provided and concludes that recommendation iii. has been implemented satisfactorily.

#### **Recommendation iv.**

26. *GRECO recommended to develop codes of conduct/ethics for all public officials, preferably including anti corruption measures, such as reporting indicia of corruption etc, as a complement to legislation.*
27. The authorities of Lithuania have reported that the Government in 2002 established an inter-agency working group with the mandate to develop a Code of Conduct for Public Officials. A draft Code was approved by the Government on 14 August 2003 and was at the time of the adoption of this report pending before Parliament. One of the objectives of the Code is to prevent corruption and it contains specific rules on preventive measures, such as an obligation to report corruption, not to receive gifts, to declare interests, etc. The Code also contains sanctions for violations, such as reprimand, reduction of salary and dismissal.
28. GRECO took note of the information provided. As the Code has not yet been adopted and, accordingly, is not operational, it cannot conclude that the recommendation has been fully implemented.
29. GRECO concludes that recommendation iv. has been partly implemented.

#### **Recommendation v.**

30. *GRECO recommended to subject the management of the courts to the supervision of an independent and impartial body.*
31. The authorities of Lithuania have reported that the control of the management of courts, at the time of the adoption of the Evaluation report was insufficient and that since then the situation has changed. On 24 January 2002 the Seimas adopted a new Law on Courts and on 17 June 2002 the Judicial Council approved the Regulations of Administration in Courts. These documents regulate the control of judges' activities and the control of an internal and external administration in a court.
32. Article 103 of the Law on Courts provides for the definition and contents of the internal administration in a court. According to this article, the Chairman of a court is responsible for the internal administration in court. Article 104 of the same law provides for the supervision of the administrative activities of courts – external administration of courts. Supervision of administrative activities is exercised: 1) of district courts - by the Chairman of the relevant regional court; 2) of regional administrative courts - by the Chairman of the Supreme Administrative Court and 3) of regional courts - by the Chairman of the Court of Appeals. The Court of Appeal, the Supreme Court and the Supreme Administrative Court are supervised by the Judicial Council.

33. The Authorities have also reported that the Judicial Council is the main body dealing with the key issues relating to the courts administration and control of the administration in courts. The Judicial Council is composed of 24 members, 6 of them are not judges: one authorised representative of the President of the Republic, one authorised representative of the Seimas, the Chairman or Vice Chairman of the Legal Affairs Committee of the Seimas, the Chairman or Vice Chairman of the Seimas Committee of Budget and Finances, the Minister of Justice or the Vice Minister and the Minister of Finance or the Vice Minister of Finance. The Council comprises representatives from legislative and executive, as well judicial authorities, in order to ensure transparency and supervision of administrative activities of courts. Moreover, the Judicial Council has established a working group to keep society informed about the activities of courts. Moreover, the Judicial Council appoints members of the Judicial Ethics and Disciplinary Commission, which may institute disciplinary action against judges for demeaning of judicial office or, for committing an administrative offence. Disciplinary actions are forwarded to the Judicial Court of Honour. After the review of a disciplinary action, the Judicial Court of Honour may impose a disciplinary sanction. In implementing the internal and external control of court activities, the Judicial Council reviews audit reports. If the audit points out any shortcomings of the court, the court must inform the Judicial Council about possible measures to deal with the shortcomings (Articles 16 and 17 of the Regulations of Administration in Courts).
34. The Lithuanian Authorities have emphasised that the establishment of another kind of institution to supervise the management of courts would not be consistent with the Constitution. On 21 December 1999, the Constitutional Court ruled that the supervision of administration of the court system and judges via the Courts Department carried out by the Minister of Justice at that time was unconstitutional, such control was therefore repealed.
35. GRECO took note of the information provided. It noted that the described system to a large extent is an internal control system where judges supervise judges. The Judicial Council, however, has a more independent status but its supervision appears to be rather limited. At the same time, GRECO takes into account and respects the strong judicial independence provided for in the Constitution of Lithuania and is of the opinion that what has been presented by Lithuania is an improved system with regard to the supervision of the management/administration of Lithuanian courts.
36. GRECO concludes that recommendation v. has been dealt with in a satisfactory manner.

**Recommendation vi.**

*GRECO recommended to establish a clear distribution of cases concerning corruption between various law enforcement bodies and, if need be, between them and the prosecution service.*

37. The authorities of Lithuania have reported that this recommendation has been implemented by adopting new laws and secondary legislation; On 14 March 2002, the Seimas, adopted a new Criminal Procedure Code, which came into force as of 1 May 2003. Moreover, on 29 October 2002, the Seimas adopted the law on the procedure of enactment and implementation of the Criminal Code (adopted already in September 2000) and the Criminal Procedure Code and the Punishment Enforcement Code (adopted in June 2002). On 11 April 2003, the Prosecutor General passed an order on the distribution of investigation of criminal acts among pre-trial investigation bodies, which provides the prosecutor with the task of distributing criminal cases,

having regard to the competence and functions of law enforcement bodies. With regard to corruption, SIS is pursuant to the Law on SIS, charged with the investigation of such cases.

38. GRECO took note of the information provided and concludes that recommendation vi. has been implemented satisfactorily.

**Recommendation vii.**

39. *GRECO recommended to arrange specialised education and training of investigating staff on how to detect and investigate financial-economic crime, including corruption. Furthermore, Lithuania should consider measures to improve the efficiency of expertise and audit in such cases.*
40. The authorities of Lithuania have reported that specialised training have been organised to a large extent for the Special Investigation Service (SIS), the Financial Crime Investigation Service (FCIS) and the Prosecutor General's Office. The Authorities have submitted a list containing pertinent courses arranged in 2001-2003. SIS staff have had the opportunity to follow some 30 courses during this period and SIS has planned further training in 2004-2006. The Prosecutor General's office has had access to 17 courses and the FCIS to 22 courses. The courses have been organised by the Lithuanian authorities, by other States and to a large extent by international organisations.
41. Moreover, the authorities have reported that the Auditors Department under the Ministry of Finance had been reorganised in order to improve its efficiency. New rules of procedure were adopted in March 2003 and later the same year the procedure for using experts was changed. The number of auditors had increased in 2003 (from 134 to 147) and the number of inspections as well (from 741 to 926).
42. GRECO took note of the information provided and concludes that recommendation vii. has been implemented satisfactorily.

**Recommendation viii.**

43. *GRECO recommended to provide for speedier criminal proceedings and adjudication of cases concerning corruption, when linked to financial-economic crime.*
44. The authorities of Lithuania have reported that a number of changes in primary and secondary legislation has had the objective of speeding up the pre-trial process, mainly the new Criminal Procedure Code (CPC) (which came into force in May 2003), Provisions on Court Administration (approved by the Judicial Council in June 2002) and the Control Procedure of Pre-trial Investigation Deadlines (approved by the Prosecutor-General in April 2002).
45. Article 2 of the CPC obliges prosecutors and pre-trial investigators to carry out pre-trial investigation within the shortest time possible. Prosecutors have to control how the deadlines of pre-trial investigations are met (Article 176). If pre-trial investigation lasts more than 6 months, Article 215 of the CPC allows the suspect or his/her representative to lodge a complaint to the judge of pre-trial investigation. The judge may obligate the prosecutor to finish pre-trial investigation within a certain deadline.
46. The Provision of Control Procedure of Pre-trial Investigation Deadlines lays down time limits of pre-trial investigation (five months after the first interview, etc) and control of this procedure.

47. Article 240 of the CPC provides for the time limits of transferring and hearing cases in court. Upon receiving the cases and not later than within 15 days, the judge should decide to transfer the case to court hearing. The case should be heard not later than within 20 days after the judge's decision to transfer the case for court hearing. Extension is possible, but not for more than 30 days.
48. Furthermore, the Provisions on Court Administration provides for control of deadlines of hearing cases in court. Paragraph 21 of the said Provisions obliges the Chairman of the Court to clarify the reasons and, if necessary, to eliminate the obstacles that delay pre-trial investigation for more than 6 months. The list of cases the hearing of which last for more than 12 months in district courts, and more than 24 months in county courts are sent to the higher administrative body, and if so requested, to the Judicial Council.
49. GRECO took note of the information provided. It was pleased that Lithuania had dealt with the problem of lengthy criminal proceedings during the pre-trial phase and trial, which is a general problem not limited to corruption cases. The measures described will hopefully speed up the criminal process generally, including the process of cases of corruption.
50. GRECO concludes that recommendation viii. has been implemented satisfactorily.

**Recommendation ix.**

51. *GRECO recommended to reconsider the complaints procedure within the field of public procurement, in order to make it more efficient and easier to access by the public.*
52. It is recalled that GRECO in its findings had expressed concern about the at the time existing complaints procedure, in particular with regard to the independent Commission, its legal expertise, selection process and procedural costs (a fee).
53. The authorities of Lithuania have reported that a new Law on Public Procurement was adopted on 10 February 2003, according to which the old system of complaints have been replaced by a procedure under which complaints may be lodged with the contractor directly and subsequently to a general court or, directly to a court. No fee is charged.
54. GRECO took note of the information provided and concludes that recommendation ix. has been implemented satisfactorily.

**Recommendation x.**

55. *GRECO recommended to reconsider the regulations concerning immunity, with a view to avoiding more than one decision concerning the lifting of the immunity in each case.*
56. The authorities of Lithuania have reported that this recommendation has been considered, in particular by the Seimas Committee of Legal Affairs together with representatives of the Government, including legal staff. Lithuania has come to the conclusion that there is no strong reason to change the procedure for lifting the immunity that is provided for in the Constitution for the following reasons:
57. Articles 62, 100, 104, 114 of the Lithuanian Constitution provide that a member of the Seimas, the Prime Minister and a judge of the Constitutional Court may not be prosecuted, arrested or



restricted of personal freedom without the consent of the Seimas or, in the period between Seimas sessions, the President. It is the task of the Prosecutor General to notify the Seimas about the offence and request to lift immunity. Requests of the Prosecutor General may vary depending on the type of the offence, personality of a suspect and other circumstances. Normally, the Prosecutor General would address the Seimas with a request to institute a legal action against a suspect. The Seimas would grant all such requests. For example, on 25 November 1993, the Seimas adopted a Resolution whereby giving consent to prosecute a judge. Similar permissions were given by Resolutions of 27 May 1997 and 5 November 1998. By a Decree of 17 August 1993, the President of the Republic gave consent to institute legal action against a judge. Moreover, there have been cases when the Seimas permitted to prosecute a person by one request of the Prosecutor General and by the other request – to arrest the same person. For example, by the Resolution of 19 August 1997, the Seimas gave its consent to prosecute a member of the Seimas, and by the Resolution of 28 October 1997, allowed to arrest that person. It is noteworthy that neither the Constitution, nor the Statute of the Seimas prohibit the Seimas or the President to give consent at the same time to prosecute a person, arrest him/her or have his/her personal freedom restricted in any other way. Such consent was given concerning two suspected judges by the Seimas Resolution of 8 October 1996. By a Decree (17 July 2003), the President permitted to prosecute, arrest or restrict their personal freedom in any other way of three judges suspected of a crime. The Seimas has given its consent to all the requests during the last 13 years.

58. GRECO took note of the information provided; Lithuania has considered this recommendation and, GRECO is of the opinion that sufficient reasons for the Lithuanian position have been presented.
59. GRECO concludes that recommendation x. has been dealt with in a satisfactory manner.

### **III. CONCLUSIONS**

60. In view of the above, GRECO concluded that almost all recommendations have been either implemented satisfactorily or otherwise dealt with in a satisfactory manner.
61. Recommendations i., ii., iii., v., vi., vii., viii., ix. and x. have been implemented satisfactorily. Recommendation iv. has been partly implemented.
62. GRECO invited the authorities of Lithuania to submit to it additional information relating to recommendation iv. by 31 December 2005.