



DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS
DIRECTORATE OF MONITORING

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Second Evaluation Round

Compliance Report on Lithuania

Adopted by GRECO
at its 33rd Plenary Meeting
(Strasbourg, 29 May-1 June 2007)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Lithuania at its 23rd Plenary Meeting (20 May 2005). This report (Greco Eval II Rep (2004) 12E) was made public by GRECO, following authorisation by the authorities of Lithuania, on 14 September 2005.
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 implement the recommendations on 20 April 2007.
3. At its 26th Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Estonia and Ireland to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Mari-Liis LIIV 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 objective of the RC-Report is to assess the measures taken by the authorities of Lithuania, to comply with the recommendations contained in the Evaluation Report.

II. ANALYSIS

5. It was recalled that GRECO in its evaluation report addressed eight recommendations to Lithuania. Compliance with these recommendations is dealt with below.

Recommendation i.

6. *GRECO recommended to consider providing the Special Investigation Service with adequate resources and enhance its in-house specialised knowledge with a view to enabling the Service to trace instrumentalities and proceeds of crime, particularly with regard to legal persons, in a more effective manner.*
7. The authorities of Lithuania report that, in September 2005, the Board of the *Seimas* (Parliament) adopted Decision No. 458 which will allow for an increase in the number of employees at the Special Investigation Service (SIS) to 290 persons¹. The budget of the SIS for 2006 (in comparison to the budget of the SIS for 2005) was increased by almost 4 million Lithuanian Litas (approximately €1.16 million).
8. Furthermore, in June 2006, the *Seimas* adopted the 2005 Activity Report of the SIS. In the resolution, with which it adopted the report, it emphasised the need to enhance the capacities of the SIS to detect and investigate corruption crimes, to improve professionalism of the staff of the SIS and to provide it with better funding and technical equipment. It proposed to the government to increase the budget allocated to the SIS with a view to strengthening its intelligence and pre-trial investigation capacities.²
9. Finally, from 2005 to early 2007, the employees of the SIS took part in various seminars, including:

¹ In 2006, 30 new employees were recruited to the SIS; however, 22 officers left the SIS. The number of staff, in May 2007, is 222.

² The budget of the SIS was subsequently increased to 22 million Lithuanian Litas (approximately €6,4 million) in 2007, compared to 20 million Lithuanian Litas (approximately €5,8 million) in 2006.

- a course on the liability of legal persons in 2005 (in which 19 SIS officers participated);
 - a seminar on the new legal norms of the Criminal Code and Criminal Procedure Code conducted by Supreme Court judges in 2005, which included various issues related to the application of the provisions on liability of legal persons and financial crimes (which was attended by 27 SIS officers);
 - a similar workshop on the new provisions of the Criminal Code and Criminal Procedure Code, conducted by the Prosecutor General's Office and the Ministry of Justice in 2005 (which was attended by 41 SIS officers);
 - a seminar on detecting crimes offered by EUROJUST in 2005 (which was attended by 8 SIS officers);
 - a training programme 'Economic Crimes and the Fight against Corruption' conducted by the Danish prosecutor's office in 2005 (in which 4 SIS officers participated);
 - a seminar on the application of individual regulations of the Criminal Code and Criminal Procedure Code in 2006 (in which 19 SIS officers participated);
 - seminars organised by the US Federal Bureau of Investigation on asset forfeiture in the US and the investigation of corruption in relation to EU structural funds in 2007 (which was attended by 10 officers);
 - two seminars on the arrangement of pre-trial investigation in the UK and the means of gathering criminal intelligence applied in the UK in 2005 (both attended by 6 SIS officials) and two study visits in 2006 to the Serious Fraud Office in the UK, to *inter alia* share best practices about the detection and investigation of serious fraud, and to the UK Assets Recovery Agency, to acquire further knowledge on the investigation of financial crimes. The training materials of the latter study visit were subsequently presented to SIS officers in Lithuania.
10. Finally, the authorities of Lithuania reported that, in 2005, the SIS initiated criminal proceedings against 5 legal entities suspected of having committed bribery offences. In 2006, the SIS investigated 1 legal entity in connection to bribery.
11. GRECO takes note of the information provided. It commends the Lithuanian authorities for having significantly increased the resources of the SIS. As to the second part of the recommendation, GRECO recalls that, in its Second Round Evaluation Report, it expressed some particular concerns as regards the expertise available to the SIS on book-keeping and financial aspects of crime involving legal persons. It would have therefore appreciated more precise information on if and how these aspects of financial investigations have been covered or are planned to be covered in training provided to the staff of SIS. Nevertheless, GRECO welcomes the training that has been provided to enhance the knowledge of the SIS on tracing instrumentalities and proceeds of crime. GRECO encourages the Lithuanian authorities to ensure that book-keeping and financial aspects of crime involving legal persons are also covered in the training activities of the SIS, if this has not been done already.
12. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

Recommendation ii.

13. *GRECO recommended to enhance, through guidelines and training, the practical side of management of temporarily seized property (such as enterprises or company shares) among responsible authorities.*

14. The authorities of Lithuania report on the various - introductory, general and specialised in-service - training programmes of a general nature for prosecutors and pre-trial investigators. These programmes include training on issues of relevance to seizure and confiscation of property, including temporary limitation of property rights, as this forms an integral part of the investigation and prosecution of various forms of crimes. In addition, a number of more specialised training activities on financial-economic crimes, confiscation of criminal proceeds and liability of legal persons have been organised for pre-trial investigators and prosecutors.
15. Moreover, the Prosecutor General approved, in May 2000, the rules "On recording, safe-keeping, transferring to courts, return of real evidence and other items, money, valuables, securities". In October 2006, the Commissar General issued the "Instructions of accepting, recording, safe-keeping, transferring, return and destruction of seized, arrested, confiscated items, real evidence", which replaced previous instructions on this issue of 2001. These rules and instructions are mandatory to prosecutors and pre-trial investigation officers and regulate the activities in relation to evidence and other items, which can be regarded as instrumentalities or objects of crime or which establish the guilt or innocence of persons, or confiscated property.
16. Furthermore, pursuant to the Action Plan of 2006 of the National Anti-Corruption Program, the Prosecutor General's Office analysed the practice of prosecutors in applying the legal provisions on the seizure of property, including the management of this property, in criminal cases dealt with in 2005 and during the first half of 2006. In January 2007, the Prosecutor General's Office presented the outcome of the analysis and made recommendations for further improvements. The analysis did however not reveal any problems in practice as regards the management of seized property. The recommendations for further improvements in the application of the legal provisions on the seizure of property focus therefore on complex cases and the necessity to make full use of all possibilities provided by law to use coercive measures in these cases. The outcomes of the analysis and the recommendations were conveyed to all prosecutors.
17. Finally, the Lithuanian authorities point out that the management of temporarily seized shares and other immaterial property is not part of the functions of prosecutors and pre-trial investigation officers, as they may not be engaged in financial-economic activities. Instead, temporarily seized shares and immaterial property are managed by persons appointed for this purpose in accordance with the procedure set out in the Law on the Register of Acts of Property Seizure. In appointing these persons, the competent authorities will take into account whether the persons appointed have the necessary expertise to manage this property and, where appropriate, will provide in their seizure order instructions on the types of activities that may or may not be carried out with the seized property.
18. GRECO takes note of the information provided. GRECO would have appreciated more precise information enabling it to assess whether the need for guidelines for 'responsible authorities', which does not necessarily just refer to prosecutors (or pre-trial investigators) but may also include persons appointed for this purpose in accordance with the procedure set out in the Law on the Register of Acts of Property Seizure, is no longer prevalent. GRECO however accepts that in appointing persons to manage seized property, the competent authorities will take into account whether this person will have sufficient expertise to manage such property effectively and that the analysis carried out by the Office of the Prosecutor General did not point to any problems concerning the management of temporarily seized property.
19. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

Recommendation iii.

20. *GRECO recommended to provide for an efficient monitoring of the anti-corruption programmes adopted at sector and local levels.*
21. The authorities of Lithuania report that the Special Investigation Service (SIS) was assigned responsibility for the implementation of this recommendation. By virtue of the 2002 Corruption Prevention Law, the SIS is required to annually monitor the anti-corruption programmes adopted at sector and local level, make an assessment of the measures taken by public and local authorities to carry out the relevant anti-corruption programmes, identify lacunae in the implementation of these programmes and make recommendations for improvements. In 2005 and 2006, the SIS carried out analyses of corruption risks in the ministries of economy, transport, social security and labour, foreign affairs and environment. It made proposals regarding the content of the various anti-corruption programmes adopted by the ministries and provided advice on their implementation. In 2007, the SIS will complete its risk analysis of corruption in the ministry of the interior and a number of state bodies accountable to this ministry (including the Police Department, Financial Crimes Investigation Service, State Border Guard Service and Civil Service Department). All respective ministries are required to send information on the implementation of their (sector) anti-corruption programmes to the SIS.
22. Furthermore, in 2006, the SIS assessed the anti-corruption measures taken in the county of Vilnius, the municipality of Vilnius, the county of Klaipeda, the municipality of Klaipeda and the municipality of Panevezys and issued in total 59 recommendations and proposals for improvements. In 2007, the SIS will provide its opinion on the risk analysis of corruption in the municipality of Vilnius and will issue a further 9 proposals to it. In addition, an analysis was made of various anti-corruption programmes and the need for improvement of existing anti-corruption programmes (for the municipalities of Kretinga, Neringa and Šilutė) or the development and adoption of new anti-corruption programmes (for Klaipeda, Palanga, Plungė, Šilalė and Tauragė) was emphasised. Finally, the SIS has provided advice on the development and implementation of anti-corruption programmes to a number of municipalities and to employees of these municipalities, who are in charge of the prevention of corruption in the respective bodies.
23. GRECO takes note of the information provided. It welcomes the work carried out by the SIS as regards the monitoring of local and sector anti-corruption programmes. It trusts that the concerns it expressed in its Second Round Evaluation Report as regards the strong discrepancies between the national anti-corruption strategy and local and sector programmes and the fact that the majority of the local and sector programmes were not implemented in practice, have been adequately addressed in the context of this monitoring.
24. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

25. *GRECO recommended to consider introducing the regular rotation of staff, or similar measures, in such areas which entail a particular risk of corruption.*
26. The authorities of Lithuania report that Article 16, paragraph 10, of the Statute of the Interior Service, which entered into force in April 2003, already provides for the possibility to transfer certain categories of officers employed at the Ministry of the Interior, including the heads of institutions under control of the Police Department, State Border Guard Service, Fire Department and the Financial Crime Investigation Service and officers of professional training institutions of

the Ministry of the Interior, to another position within the system of the Ministry of the Interior without their agreement.³ The Statutes of Customs, the State Security Department and the Special Investigations Service all provide for the possibility of staff rotation as well.

27. In addition, the Lithuanian authorities report that in January 2006, the *Seimas* adopted Resolution X-486 on the updating of the Action Plan of the National Anti-Corruption Programme, which required the Ministry of the Interior, along with other public bodies, to analyse – in the fourth quarter of 2006 - the feasibility of introducing the principle of rotation of public officials and, where necessary, draft the relevant legislative changes.
28. The Ministry of the Interior has subsequently considered the wider applicability of staff rotation. It has concluded that this can be an effective measure for the prevention of corruption, but may cause some problems in practice due to the specific nature of work carried out by certain institutions, the different requirements for different public officials (such as the level of specialisation, work experience and education), the need to compensate staff for relocation and the measures to be taken to ensure that the family of the employees in question are adequately resettled (i.e. employment of the spouse in a new location, childcare and education). For these reasons regular rotation of staff has so far only been used to a limited extent. At present, rotation of staff is primarily applied in State Border Guard Service, which is part of the Ministry of the Interior.
29. GRECO takes note of the information provided. It appears that regular rotation of staff has been and continues to be considered for various sectors of the public administration. GRECO notes with satisfaction that this measure is applied in the State Border Guard Service.
30. GRECO concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

31. *GRECO recommended to progressively eliminate the practice of accepting gratuities in the health and social care sectors.*
32. The authorities of Lithuania recall that under Article 6.470, paragraph 4, of the Civil Code the employees in health and social care sectors are not permitted to accept gifts from persons in care (or their close relatives), with the exception of gifts with a value not exceeding the minimum living standard (which is 130 Lithuanian Litas, approximately €38). In July 2005 the Committee on Legal Affairs of the *Seimas* started the procedure for removing this provision from the Civil Code and noted that this provision was improper and tainted the reputation of employees working in health or social care. Subsequently, the *Seimas* adopted an amendment to Article 6.470 of the Civil Code, which entered into force in July 2006, deleting this paragraph and thereby abolishing the legal basis for accepting gratuities in the health and social care sectors.
33. GRECO takes note of the information provided. It recalls that in the Second Round Evaluation Report it expressed its misgivings about a system where the acceptance of gifts of a substantial value could be seen to be encouraged by legislation. GRECO welcomes that the legal basis for the acceptance of gratuities in the health and social care sectors has now been removed.⁴ It

³ Staff in these positions can, however, only be transferred to another position in a different location if they are compensated for any additional (living) costs and travel expenses.

⁴ It should also be recalled that the provision which has now been deleted from the Civil Code was an exception to the general principle which forbids politicians, state and municipal officials and other civil servants – including persons employed

however encourages the Lithuanian authorities to take further measures – if this has not been done so already - to ensure that such gratuities will also no longer be accepted in practice.⁵

34. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

35. *GRECO recommended to introduce, pending the adoption of the Code of Conduct, regular in-service training on public ethics for public officials at all levels.*

36. The authorities of Lithuania report that since the adoption of the Corruption Prevention Law in 2002, training of public officials on corruption issues (including professional ethics) has consistently and actively been pursued at all levels. In addition, in May 2006, the Minister of the Interior issued an Order requiring the existing introductory courses and in-service training programmes for public officials to be supplemented with training on standards of professional ethics. Furthermore, the Public Officials' Training Strategy for 2007-2010, which was adopted by the Government in 2006, identifies the development of expertise of public officials on professional ethics and the prevention of corruption as a priority. In line with the objectives of the aforementioned Order of the Minister of the Interior and the Public Officials' Training Strategy, the Civil Service Department of the Ministry of the Interior⁶ had, by February 2007, adopted 4 special training programmes on public ethics, as well as 35 training programmes of a more general nature, which each include at least one module on professional ethics.

37. The training that has been provided so far includes:

- public ethics courses attended by 120 employees of the State Tax Inspectorate (STI) in 2006 and 58 employees in 2007 (until April 2007);
- 2 seminars on ethics for 11 public officials of the Financial Crimes Investigation Service in 2006, and;
- 28 anti-corruption education seminars (including professional ethics) and workshops conducted by the Special Investigation Service (SIS) for employees of the Ministry of Foreign Affairs (for approximately 40 persons), the Ministry of Health (30 persons), the municipality of Vilnius (5 seminars for 30 persons in total), the municipality of Kaunas (60 persons), the county of Kaunas (36 persons), the police department (including the regions; more than 150 persons), the State Border Guard Service (50 persons), customs (30 persons), various hospitals (100 persons) and the Lithuanian Business Support Agency (4 seminars; 70 persons in total) in 2006.

38. Moreover, the Lithuanian authorities report that in March 2006 the Rules of State Border Guard Service Officers' Conduct were adopted. Training on these rules has been included in the regular training programmes for officers of the State Border Guard Service and in the training for students of the Visaginas Frontier Line School. In addition, the Code of Ethics for police officers, which was adopted in July 2004, has been included in the "in-service training programme dealing with corruption issues in the police" (which has been organised at the Lithuanian Police Training

in the health and social sector – (as well as their close relatives) to accept gifts related to the performance of their official duties.

⁵ For example, information on possible initiatives to raise awareness among employees in the health and social care sectors that this practice is no longer permitted, to include this in internal regulations or codes of ethics, or if this was included in the training given by the SIS to various hospitals (See under recommendation vi) etc. would have been welcome.

⁶ Training programmes of public officials of more than 8 academic hours are to be submitted to the Civil Service Department for adoption.

Centre from September 2005). Aside from the Code of Ethics, this training programme focuses on the problems, causes and consequences of corruption in the police system and the introduction of ethical standards, and aims to develop moral responsibility amongst police officers.

39. GRECO takes note of the information provided. GRECO regrets that a code of conduct for public officials has still not been adopted (see Addendum to the First Round Compliance Report on Lithuania (Greco RC-I (2004) 6E)). It welcomes the organisation of workshops by the SIS and what appear to be comprehensive training programmes on ethics for employees of the police and State Border Guard Service, and the further plans and programmes for training on ethical issues in the near future that have been adopted by the Civil Service Department. GRECO however urges the Lithuanian authorities to adopt a code of conduct for public officials at all levels as soon as possible.
40. GRECO concludes that recommendation vi has been dealt with in a satisfactory manner.

Recommendation vii.

41. *GRECO recommended to establish liability of legal persons for the offence of trading in influence, in accordance with the Criminal Law Convention on Corruption.*
42. The authorities of Lithuania report that in June 2005, the *Seimas* adopted an amendment to Article 226 of the Criminal Code on trading in influence, establishing liability of legal persons for trading in influence⁷. The amendment came into force on 30 June 2005.
43. GRECO takes note of the information provided and concludes that recommendation vii has been implemented satisfactorily.

Recommendation viii.

44. *GRECO recommended to ensure that investigating, prosecuting and adjudicating authorities have the necessary training in order to fully apply the provisions on corporate criminal liability. Moreover, appropriate information on these matters should also be provided to the tax authorities.*

The authorities of Lithuania report in detail as regards prosecutors on the refresher courses of a general nature that have been provided. In 2005, 751 public prosecutors of the Prosecutor General's Office and territorial prosecution offices participated in 83 of refresher training events (courses, conferences, seminars, discussions etc.), including 52 training events held abroad. In 2006, 652 public prosecutors received training, 21 training seminars were organised with a total duration of 512 academic hours. For 2007, the plan is to train 1170 public prosecutors, offering 12 different training programs with a total duration of 403 academic hours. It is reported that in most of these courses different aspects of liability of legal entities, when of relevance to the topic

⁷ Article 226 of the Criminal Code now provides:

1. *Any person who, by using his/her social position, office, powers, family relations acquaintances or any other kind of possible influence on a state or municipal institution or agency, international public organisation, or person holding office therein or a persons of equivalent status to exert influence for a bribe on the respective institution or agency, public official or person of equivalent status in exchange for their lawful or unlawful acts or omissions, will be punished by detention or imprisonment of a term of up to 3 years.*
2. *Any person who commits the act stipulated in paragraph 1 of this article for a bribe of minor value commits a criminal misdemeanour and will be punished by a fine or detention.*
3. *The legal person is liable for the offences mentioned in this article as well.*

- concerned, were addressed. In addition, some prosecutors participated in a number of specific training events, such as a two-day seminar organised by the Nordic Council of Ministers and the Contact Group for Northern and Baltic countries on “Criminal liability of legal entities: does it work and how does it work” in September 2005.
45. As regards pre-trial investigators, the authorities of Lithuania report on various specific seminars that were organised, including a seminar on “the liability of legal entities” in April 2005 (attended by 19 officers of the Special Investigation Service), a seminar “specificities of the application of individual regulations of the Criminal Code and Criminal Procedure Code”, which included various issues related to the application of the provisions on liability of legal persons, in 2005 and in 2006 (attended by 51 and 60 officers of the Financial Crimes Investigation Service respectively), and a refresher course on “crimes and misdemeanours against the financial system” in 2006 for 17 pre-trial investigators.
 46. The Lithuanian authorities furthermore report on the application of the provisions on corporate liability in practice. In 2005, 9 legal persons were prosecuted, compared to 1 legal person in 2004. In 2006, criminal investigations were initiated against 83 legal persons. In the same year, 33 legal persons have been convicted for criminal offences; in 28 cases fines have been imposed ranging from 1,300 to 169,000 Lithuanian Litas (approximately €380 - €49,000), in a further 3 cases the legal person was liquidated. The most typical criminal offences for which legal persons have been prosecuted are fraud, intellectual property offences, falsification of documents and accounting offences.
 47. GRECO takes note of the information provided. Considering the fact that the law had, at the time of the adoption of the Second Round Evaluation Report, only recently entered into force, it would have expected more specific courses on liability of legal persons to be organised for prosecutors and judges. In this context, it would have welcomed, in particular, further information on the training that was provided to judges on this matter. However, it recalls that the training was “to improve the level of awareness of corporate liability” and was to foster the full application of the provisions on corporate liability. Against this background, GRECO notes with satisfaction the sharp rise in prosecutions and adjudications of criminal cases involving legal persons. Nevertheless, as it was not informed of any information provided to tax authorities on these matters, as required by the recommendation, it cannot - as of yet - conclude that the recommendation has been fully complied with.
 48. GRECO concludes that recommendation viii has been partly implemented.

III. CONCLUSIONS

49. **In view of the above, GRECO concludes that Lithuania has implemented satisfactorily or dealt with in a satisfactory manner almost all of the recommendations contained in the Second Round Evaluation Report.** Recommendations iii, iv, v and vii have been implemented satisfactorily and recommendations i, ii and vi have been dealt with in a satisfactory manner. Recommendation viii has been partly implemented.
50. GRECO invites the Head of the Lithuanian delegation to submit additional information regarding the implementation of recommendation viii by 30 November 2008.
51. Finally, GRECO invites the authorities of Lithuania to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.