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## **Second Evaluation Round**

### **Compliance Report on Luxembourg**

Adopted by GRECO  
at its 28<sup>th</sup> Plenary Meeting  
(Strasbourg, 9-12 May 2006)

## I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Luxembourg at its 18<sup>th</sup> Plenary Meeting (10-14 May 2004). This report (Greco Eval II (2003) 5E) was made public by GRECO, following authorisation by the Luxembourg authorities, on 30 June 2004.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Luxembourg submitted, on 4 April 2006, their Situation Report (RS-report) on the measures taken to implement the recommendations set out in the Second Round Evaluation Report. They also provided additional information on 11 April 2006.
3. At its 26<sup>th</sup> Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Belgium and Moldova to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Isabelle Van Heers on behalf of Belgium and Ms Elena Echim on behalf of Moldova. The Rapporteurs received the GRECO Secretariat's assistance in drafting the Compliance Report (RC-Report).
4. The objective of the RC-Report is to assess the measures taken by the authorities of Luxembourg to comply with the recommendations contained in the Evaluation Report.

## II. ANALYSIS

5. It was recalled that in its Evaluation Report GRECO addressed 13 recommendations to Luxembourg. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended that the law be changed to permit, where appropriate, the confiscation of assets of an equivalent value to the proceeds of any corruption offence, including private corruption, and that this be encouraged in judicial practice.*
7. The authorities of Luxembourg state that confiscation of assets of an equivalent value has been provided for in Luxembourg law since the Act of 11 August 1998 on laundering offences (Article 32-1 of the Criminal Code). Since corruption has been identified as the principal offence giving rise to the proceeds concerned by the conviction for laundering, there is therefore already at present a possibility of taking judicial action regarding assets of an equivalent value in connection with proceedings concerning corruption offences. Under the Confiscation Bill (No. 5019, tabled in the Chamber of Deputies on 26 August 2002) this possibility would exist for all corruption offences. This bill is currently before the Conseil d'Etat for an opinion. Its purpose is to amend Article 31 of the Criminal Code, the general legislation in matters of confiscation applicable, failing a special rule, to any offence classified as a crime or lesser indictable offence, so as to introduce in paragraph 4) the possibility of confiscating assets belonging to the convicted person of an equivalent value to the assets constituting the object or the proceeds of the offence; since this provision was of a general nature, in view of its inclusion in the general part of the Criminal Code - Book I, it would be applicable to the offences defined in the new Articles 310 and 310-1 of the Criminal Code (active and passive corruption offences - i.e. offering and accepting or soliciting bribes - in the private sector). Since the procedural rules governing powers of seizure (Article 31 of the Code of Criminal Investigation) provide that any asset liable for confiscation can be seized, this legislation encompasses the possibility of seizing assets liable for value confiscation.

8. Another bill aimed at regulating preventive attachment of immovable property in criminal matters had been tabled in the Chamber of Deputies on 4 January 2006. The aim was to clarify the relevant rules.
9. Lastly, in its judgment No. 584/05/X of 21 December 2005 the Court of Appeal set aside a judgment on the ground that "it failed to order the confiscation of the objects (in the case under consideration a sum of money which could not be found) handed over by the person committing bribery to the bribed (public) official."
10. GRECO takes note that confiscation of assets of an equivalent value to the proceeds of any corruption offence, notably private corruption, is not yet expressly provided for in national law. According to the Luxembourg authorities, Bill No. 5019 applies to the confiscation of assets of an equivalent value to the proceeds of any corruption offence, including private corruption. However, four years after being brought before parliament, this legislation has still not been passed. GRECO noted that Luxembourg had ratified the Criminal Law Convention on Corruption on 13 July 2005 and that the convention had entered into force in respect of the country on 1 November 2005. The Luxembourg authorities should accordingly pursue their efforts to ensure the rapid adoption of the draft legislation on confiscation and on preventive attachment of immoveable property and to make it possible to confiscate assets of an equivalent value to the proceeds of any corruption offence, including private corruption.
11. GRECO notes that, in a recent judgment, the Court of Appeal overturned a judgment on the ground that it failed to order the confiscation of assets equivalent in value to the proceeds of a corruption offence and welcomed this development in judicial practice. GRECO understood that, when the two above-mentioned bills (of 2002 and 2006) had been passed and had entered into force, additional measures could be taken to encourage further the confiscation of assets of an equivalent value to the proceeds of any corruption offence in judicial practice.
12. GRECO concludes that recommendation i has been partly implemented.

**Recommendation ii.**

13. *GRECO recommended that the law be changed to permit, where appropriate, the seizure of assets of an equivalent value to the proceeds of corruption and that this be encouraged in judicial practice.*
14. The authorities of Luxembourg state that reference should be made to the reply already given concerning implementation of recommendation i, as the previously mentioned bills on confiscation and on preventive attachment of immoveable property should also permit the freezing or seizure of assets of an equivalent value to the proceeds of crime, in particular so as to guarantee the confiscation of assets of an equivalent value to the proceeds of any corruption offence.
15. GRECO takes note of the information provided by the Luxembourg authorities concerning the implementation of recommendation i. The adoption of the bills on confiscation and on preventive attachment of immoveable property should change the law so as to permit the seizure of assets of an equivalent value to the proceeds of any corruption offence. GRECO understands that the passing and entry into force of these two bills was a precondition for the subsequent adoption of tangible measures to encourage the seizure of assets of an equivalent value to the proceeds of

any corruption offence in practice, in accordance with the Criminal Law Convention on Corruption.

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

**Recommendation iii.**

17. *GRECO recommended that appropriate training programmes be established for the relevant authorities on the identification, seizure and confiscation of the instruments and proceeds of corruption or of assets of equivalent value.*
18. The authorities of Luxembourg report that civil servants, police officers and judicial services staff had participated in training programmes on combating corruption. As part of its internal training programme the police force run special sessions for police officers expected to perform corruption-related investigations, which concern the financial aspects of certain offences and the related investigation. Police officers and members of the state prosecution service or the judiciary are also able to participate in training seminars organised by the authorities of neighbouring countries or networks such as CARIN (bringing together the national departments managing seized assets) of which Luxembourg was a member. For instance, the Luxembourg prosecutor who deals specifically with confiscations has attended conferences and seminars on confiscation/seizure of the proceeds of crime (held in the Netherlands, Germany, Italy and Ireland) at least once a year since 2000, and police officers had participated in seminars hosted by CARIN and EUROJUST. In a corruption case involving a senior civil servant, which came before the courts in 2002, the investigators conducted a full inquiry into the defendant's assets, in particular to determine their origins. In general, as soon as a case involved money matters, an investigation was launched into these aspects in the same way as the investigation into the circumstances of the offence.
19. GRECO takes note of the fact that training programmes on identification, seizure and confiscation of the proceeds of corruption were available for police officers, state prosecutors and members of the judiciary who wished to participate.
20. GRECO understands that, in view of the real crime situation in Luxembourg (a single asset-related investigation in a corruption case had been performed, in 2002), the authorities considered that introducing a training programme specifically focusing on the identification, seizure and confiscation of instruments and proceeds of corruption or of assets of equivalent value was not a priority.
21. GRECO nonetheless notes that, since the adoption of the second-round evaluation report, there has been no real improvement in the training dispensed to the competent authorities in matters of identification, seizure and confiscation of proceeds of corruption, whereas this field of crime and the financial arrangements used to conceal its profits are becoming increasingly complex. Moreover, the existing training courses are currently very sporadic, and attendance is mostly optional. Lastly, training would be necessary with a view to the implementation of the two above-mentioned Bills of 2002 and 2006 (see recommendation i) once they have been passed and have entered into force. A reinforcement of financial and asset-related inquiries and investigations necessitate at the very least an appropriate training scheme targeting the competent authorities.
22. GRECO concludes that recommendation iii has been partly implemented.

#### **Recommendation iv.**

23. *GRECO recommended that consideration be given to establishing an appropriate balance in the burden of proof, in connection with a conviction, to assist the court in identifying corruption proceeds liable for confiscation in suitable cases.*
24. The authorities of Luxembourg report that this recommendation is still being studied, inter alia in connection with the discussion on the measures necessary to transpose the European Council's framework decision 2005/212/JAI of 24 February 2005 on confiscation of proceeds and instruments of crime or related assets.
25. GRECO takes note of the fact that the Luxembourg authorities are studying the possibility of introducing a balance in the burden of proof with a view to confiscation of the proceeds of crime. It stresses that these efforts should continue, inter alia, in connection with the ratification by Luxembourg of Convention CETS No. 198 on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism.
26. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

#### **Recommendation v.**

27. *GRECO recommended that explicit references to the risk of corruption be added, in an appropriate manner, to the civil service statute and that codes of conduct concerning the risks of corruption be introduced, at least in potentially vulnerable areas of government.*
28. The authorities of Luxembourg point out that Chapter 5 of the general Statute of state civil servants make express reference to the "Duties of civil servants" and several articles of the Statute deal with prevention of risks of corruption (for example where there is a risk of acceptance of material benefits (Article 10.2) or of a conflict of interest (Articles 14, 15 and 17)).
29. Moreover, following GRECO's second-round evaluation, codes of ethics have been introduced in certain sectors. This applies, for instance, to the *Administration de l'Enregistrement et des Domaines* - the administration competent in VAT and indirect tax matters - whose Director approved a new code of conduct dated 16 November 2004, and to the Police of the Grand Duchy, which adopted a new charter of ethics. The Central Department of Statistics and Economic Studies (STATEC) in turn intends to lay down and implement its own code of ethics.
30. The code of conduct of the *Administration de l'Enregistrement et des Domaines* reiterates the relevant legal rules applicable to all of its staff and the most significant interpretations and recommendations that have been given concerning corruption, trading in influence, embezzlement and extortion, the duty of scrupulousness, taking unlawful advantage of an interest, ancillary activities and professional, tax and bank secrecy. The code also sets out the obligations incumbent on civil servants by reason of their status and expressly reiterates the reporting (whistleblowing) obligation provided for in Article 23, paragraph 2 of the Code of Criminal Investigation. From an organisational standpoint, care has been taken to specify that public officials wishing to comply with this obligation can seek assistance and support from the Administration's "inspectorates". These departments can also take action where tax officials note offences or infringements of the rules on corruption which, according to the code, are to be reported immediately and systematically. The Director of the Administration stated that this code

of conduct is a starting point and will gradually be supplemented to take account of changes in the law and practical experience acquired.

31. The Ministry for the Civil Service and Administrative Reform is devising a new policy which will result in the introduction of one or more codes of ethics in the administration in general. Over the next few months consideration will be given to the legal status of the future code of ethics and the themes to be addressed. Matters under discussion include the conduct of civil servants vis-à-vis the private sector (for instance, how to react to any offer of unreasonable benefits); acceptance of donations, favours and gifts; movement from the public to the private sector; incompatible outside interests and financial interests (for instance, the holding of directorships or ancillary occupations performed in the private sector); relations with political circles (political activities, incompatibilities, recruitment principles); and the rules governing the situation of whistleblowers. In addition, thought is being given to possible means of making rotation mandatory under the general civil service statute for the holders of certain "sensitive" posts, notably those linked to the award of public procurement contracts, grants, etc., and also to how incompatibilities and ancillary occupations can be better managed in the light of the GRECO report.
32. GRECO notes that the most significant progress in implementing its recommendation has been made in the *Administration de l'Enregistrement et des Domaines*. The approach followed by the Administration's Director could serve as an example for other Luxembourg government agencies and for all public officials. GRECO also welcomes the new general policy being pursued by the Ministry for the Civil Service and Administrative Reform concerning public servants' ethics and the risks of corruption (including in matters of staff rotation, improper movement from the public to the private sector and protection of whistleblowers). GRECO welcomes the adoption in January 2006 of a charter of ethics of the Grand Duchy Police, Article 6 of which provides that police personnel must be incorruptible, objective and impartial. It nonetheless notes that the wording of this charter is very general and fails to place emphasis on the risks of corruption or to give practical guidance on the conduct to be followed with regard to actual risks of that kind. The global approach being followed at the Ministry for the Civil Service and Administrative Reform might therefore usefully supplement the partial approach adopted by the police.
33. GRECO notes that many public officials are not yet subject to appropriate rules of ethics. It accordingly strongly recommends the active pursuit of the work being done by the Ministry for the Civil Service and Administrative Reform and welcomes this new overall policy approach aimed at ensuring that all public employees (not just civil servants), including those employed in public utilities and public sector companies, are governed by appropriate ethical standards, which highlights the risks of corruption and gives practical guidance regarding the conduct expected of staff in the light of such risks.
34. GRECO concludes that recommendation v has been partly implemented.

#### **Recommendation vi.**

35. *GRECO recommended that training be extended to all established public officials and other public employees, including specific training on the risks of corruption.*
36. The authorities of Luxembourg state that trainee civil servants are required to follow a compulsory training course, including training on the general status of civil servants, before they are recruited on a permanent basis. This training addresses matters such as civil servants' rights and duties and the risks of corruption. Ethics are also part of the in-service training programme. With a view

to obtaining the certificate of public management, which was a compulsory qualification required of those seeking promotion to higher office, civil servants with managerial responsibilities are able to follow courses on ethics and integrity. Lastly, training in the field of ethics is to be reviewed in connection with the issuance of the code of conduct for public officials (see the reply to recommendation v.).

37. The National Institute of Public Administration, which is responsible for initial and in-service training of central and local government officials, has taken the initiative of supplementing its programme with a training course on corruption, lasting nine hours in 2005, dispensed by the Diekirch State Prosecutor. This course includes information on the bodies established to combat corruption, the existing national and international legal instruments on the subject and their implementation, "neighbouring" offences and corruption issues more particularly linked to the status of civil servant. This course is being repeated in 2006 (two sessions) and is now open to members of the police. The training dispensed to the Police of the Grand Duchy has been supplemented by special courses on corruption. Mention should also be made of the fact that the provisions of the police force's statute relating to disciplinary matters are being revised. Training will focus on the new provisions once they have been adopted.
38. Police officers and ministerial officials have been encouraged to participate in international conferences on corruption. For instance, Ministry of Justice officials and members of the police and the police force's general inspectorate attended a conference on European co-operation in fighting corruption hosted by the police college of Rhineland-Palatinate in December 2004 and participated in the international conference of departmental directors and representatives of police supervisory bodies and anti-corruption agencies held in Vienna from 24 to 26 November 2004. Lastly, representatives of the Ministry of Public Works participated in the OECD Global Forum on Governance: Fighting Corruption and Promoting Integrity in Public Procurement.
39. GRECO takes note of the many training initiatives for public officials. The courses dispensed by the Diekirch State Prosecutor at the National Institute of Public Administration on anti-corruption measures, in particular, constitute an essential contribution to the achievement of the recommendation's objective. GRECO also note that, according to the Luxembourg authorities, training in the field of ethics will be reviewed in connection with the drafting of a code of ethics for public officials (see the reply to recommendation v.). The adoption of a code of ethics applicable to all public officials will also permit the broadening and even more systematic application of training requirements in matters of ethics, integrity and corruption risks. This new approach by the Luxembourg authorities is to be welcomed.
40. GRECO concludes that recommendation vi has been implemented satisfactorily.

#### **Recommendation vii.**

41. *GRECO recommended that conflicts of interest be subject to stricter regulation, by limiting or, where appropriate, completely withdrawing the right to be engaged in an ancillary occupation, and possibly by organising the rotation of staff who are most exposed to the risk of corruption; that there should also be clearer regulation of gifts to officials, whose statute should draw particular attention to the risks they incur in accepting gifts and the relevant criminal sanctions and, finally, regulate, in order to prohibit, "pantouflage" (i.e. the improper movement of public officials to the private sector).*

42. The authorities of Luxembourg state that the Law of 9 December 2005 determining the conditions and terms of appointment of certain civil servants holding senior office in government agencies and state departments establishes the principle of their appointment for a renewable term of seven years. This provision reportedly made it possible to guarantee a degree of rotation.
43. The authorities also state that the Luxembourg and Diekirch State Prosecutors seized the opportunity of tangible cases reported to them to remind senior officials in various government agencies of the obligation incumbent on public officials not to accept, solicit or obtain promises of gifts or other undue benefits and of their duty to report any corruption offences or other breaches of the rules of conduct that came to their knowledge.<sup>1</sup>
44. The Luxembourg authorities lastly reiterate that the Ministry for the Civil Service and Administrative Reform is devising a new policy which should result in the introduction of one or more codes of ethics within government agencies dealing, inter alia, with the problems raised by recommendation vii., including with regard to conflicts of interest, control of incompatibilities and ancillary activities, "pantouflage", rotation and gifts (see the comments relating to recommendation v. above).
45. GRECO takes note of the new measures adopted by the Luxembourg authorities, which contributed to the implementation of the recommendation. It welcomes the steps taken by the Luxembourg and Diekirch State Prosecutors with the aim of reminding the heads of certain administrations of the obligations incumbent on their staff in the fields of ethics and the fight against corruption. It also notes that the Ministry for the Civil Service and Administrative Reform had recently launched a study with a view to adopting an overall, systematic approach to these problems within the civil service. GRECO accordingly encourages the active pursuit of the work being done by the ministry in all the fields listed in this recommendation.
46. GRECO concludes that recommendation vii has been partly implemented.

#### **Recommendation viii.**

47. *GRECO recommended that the rules governing the transparency of administrative activities be extended, involving in particular guaranteed access to public documents, and that responsibility for monitoring compliance with these rules be assigned to an appropriate authority.*
48. The authorities of Luxembourg report that a preliminary draft Bill exists within the Ministry of State on the subject of access to public documents and is currently being discussed internally.

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<sup>1</sup> One case concerned the practice of the owner of a service station to offer drinks to police and customs officers. The State Prosecutor's Office reacted by sending a letter to the Director General of the Police inviting him to advise members of the force to refuse any kind of gift. In another case, following a disciplinary procedure which led to the dismissal of a public official, the Government Commissioner in charge of the disciplinary investigation had reported a criminal offence (in the case under consideration misappropriation of petrol) to the prosecuting authorities. In a third case, following suspicions reported to the prosecuting authorities by customs officials, the State Prosecutor's Office had conducted an initial inquiry into corruption and taking unlawful advantage of an interest, which had made it possible to conclude that corruption had not taken place. The prosecuting authorities had nonetheless denounced the public official's "indelicate" behaviour to the relevant administrative authority, which had taken disciplinary measures. In a fourth case, on the basis of confidential information concerning suspected irregularities provided by a regional official of the Administration of Water and Forests to the State Prosecutor's Office, the State Prosecutor had been able to remind the competent minister to draw the relevant director's attention to his duty to report any potential criminal offence. The administration had subsequently initiated a disciplinary inquiry and had referred the entire matter to the State Prosecutor's Office with a view to having it establish whether any offence had been committed.



49. GRECO takes note of the information provided by the Luxembourg authorities and invites them to speed up the discussion and adoption of the above-mentioned preliminary draft Bill, which, as mentioned in the evaluation report, is of importance to enhanced administrative transparency. GRECO points out that the recommendation also attached importance to empowering an appropriate authority to supervise compliance with these rules, so as to guarantee their effective application.
50. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

51. *GRECO recommended that public officials be provided with information concerning the implications of Article 23 of the Code of Criminal Investigation (obligation to report), which would assist the fight against corruption, and the consequences in cases of non-compliance.*
52. The authorities of Luxembourg state that this recommendation has been taken into account in particular in the initial and in-service training courses dispensed by the Diekirch State Prosecutor within the National Institute of Public Administration. A significant part of the course is in fact concerned with the reporting obligation incumbent on public officials under Article 23 of the Code of Criminal Investigation. Attending these training courses is mandatory for officials wishing to progress up the career ladder.
53. The Luxembourg authorities also indicate that the Luxembourg and Diekirch State Prosecutors have seized the opportunity of tangible cases reported to them to remind senior officials in various government agencies of the full extent of public officials' duty to report corruption offences and other breaches of the rules of conduct (see recommendation vii.).
54. Lastly, to cite an example, the Code of Conduct of the *Administration de l'Enregistrement et des Domaines* remind staff of their reporting obligation in the context of the performance of their professional duties.
55. GRECO takes note of the measures taken by the competent authorities to implement recommendation ix. It notes that the bulk of the measures have been taken by the Luxembourg and Diekirch State Prosecutors (in connection with tangible cases reported to them or the training courses they dispense at the National Institute of Public Administration although they do not concern all public officials) and by the Director of the *Administration de l'Enregistrement et des Domaines*. GRECO wishes to stress that informing staff of the implications of Article 23 of the Code of Criminal Investigation should be a matter of concern for all agencies and departments. In this context the Ministry for the Civil Service and Administrative Reform should also distribute information so as to draw the attention of the largest possible number of public officials to their reporting obligations under Article 23.
56. GRECO concludes that recommendation ix has been partly implemented.

#### **Recommendation x.**

57. *GRECO recommended extending the range of public institutions that can be audited by the Court of Auditors.*

58. The authorities of Luxembourg report that the government has issued an instruction, on 11 June 2004, so as to set guidelines and lay down general rules on the establishment of public institutions. This instruction defines the concept of a public institution and provides for each such institution to be audited by the Court of Auditors.
59. GRECO takes note of the measures taken by the Luxembourg authorities and concludes that recommendation x. has been implemented satisfactorily.

**Recommendation xi.**

60. *GRECO recommended the expansion of the role of the existing administrative inspection services.*
61. The authorities of Luxembourg point out that the administrative inspection services have been enhanced by the Act of 8 June 1999 on the State Budget, Accounts and Treasury. The Act set up a financial control unit in each ministerial department, whose independence was guaranteed since it reported to the Financial Control Directorate, a newly created administration under the authority of the Minister for the Budget. The general inspectorate of the police had been established at the same time. Under the terms of the amended Act of 31 May 1999 this inspectorate's role is to oversee the functioning of the police, for instance by reviewing the legality of police action or performing quality controls. Lastly, the general inspectorate of social security supervises social welfare institutions.
62. GRECO takes note of the information provided by the Luxembourg authorities, which did not, however, make it possible to verify to what extent the inspection services and their role had been expanded or to what extent the existing inspection services contributed to the anti-corruption efforts by detecting, reporting and sanctioning corruption offences or other similar misdeeds.
63. GRECO concludes that recommendation xi has not been implemented.

**Recommendation xii.**

64. *GRECO recommended that current legislative developments be accompanied by guidelines for accountants and auditors on how to identify signs of corruption and its proceeds as part of their professional activities and to report their findings.*
65. The authorities of Luxembourg report that the Grand Ducal Regulations of 16 March 2005 have allowed an improvement in the procedures to be applied by accountants and auditors in auditing company accounts. In addition, since the EU Directive on the statutory audit of accounts and the EU Directive aimed at improving the reliability of company accounts will introduce significant changes,<sup>2</sup> it has been deemed appropriate to wait for the final adoption of these instruments before taking decisions on the issuance of new rules on auditing procedure.
66. With the entry into force of the Anti-Laundering Act of 12 November 2004, the obligations of auditors and accountants have been clarified and harmonised. The three types of professional obligation, namely i) the obligation to identify your customers, ii) the obligation to have a suitable

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<sup>2</sup> For instance, establishing minimum requirements for statutory audits of annual accounts and consolidated accounts, broadening the scope of application of the former EU legislation (Directive 84/253/EEC), specifying the duties of statutory auditors and their independence, introducing requirements for external quality assurance, ensuring better public oversight over the audit profession, improving co-operation between oversight bodies in the European Union and many other matters.

internal organisation and to take appropriate measures to inform and train employees regarding the requirements of the Act and iii) the obligation to co-operate with the competent authorities, now applied without distinction to members of these professions. Section 9 of the Act make those who breached the three above-mentioned types of professional obligation liable to a fine ranging from 1,250 to 125,000 euros. This legislation should also have an impact on the professions' own rules of conduct. The opinion is that this issue should be re-examined after an appropriate time has passed, so as to determine to what extent these initiatives can be supplemented.

67. Moreover, relations between the public authorities and the Institute of Company Auditors (Institut des Réviseurs d'Entreprises - IRE) have been intensified, and one of the first results of this closer co-operation has been the transmission of statistics on disciplinary proceedings initiated by the IRE to the Ministry of Justice.<sup>3</sup>
68. The IRE has also stepped up its efforts to provide its members with in-service training and actively encourages them to participate in training sessions and seminars taking place throughout Europe, in particular by negotiating reduced registration fees for its members.
69. GRECO takes note of the measures and provisions adopted by the Luxembourg authorities. It welcomes the progress made regarding oversight of the profession. It nonetheless regrets that the recommended guidelines have not been issued so as to give auditors and accountants guidance on detecting corruption offences and reporting their findings. GRECO considers that these measures could be taken forthwith without waiting for the adoption of the new rules.
70. GRECO concludes that recommendation xii has been partly implemented.

#### **Recommendation xiii.**

71. *GRECO recommended introducing an adequate system of liability of legal persons for acts of corruption, with adequate sanctions or measures for the associated offences.*
72. The authorities of Luxembourg state that work was still in progress on a Bill aimed at introducing liability of legal persons in Luxembourg law. In view of the complexity of the proposed reform, the Minister of Justice decided in 2005 to launch a formal consultation process and has transmitted the preliminary draft of the Bill to various professional organisations of the Grand Duchy of Luxembourg. The Bill should be finalised before the summer of 2006.
73. GRECO takes note that the Bill had still not been finalised. GRECO has also not been given convincing information on the proposed sanctions.
74. GRECO concludes that recommendation xiii. has been partly implemented.

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<sup>3</sup> For instance, between 1 June 2004 and 31 May 2005 ten cases had been referred to the IRE, including four by the State Prosecutor and two by third parties. In one case the referral to the IRE had been made by the Institute's own President. Of these ten cases, two had been dropped, three had given rise to a warning and/or closer quality control by the IRE and one had been referred to the IRE's Disciplinary Board. In the latter case the Disciplinary Board had, on 16 June 2005, imposed a fine of 9,500 euros on the auditor concerned for failure to comply with the amended Act of 28 June 1984 concerning organisation of the auditing profession, which imposed an obligation of independence on auditors, and for failure to comply with the articles of the IRE Code of Ethics concerning professional duties linked to the prevention of money laundering. According to information supplied by the IRE, the primary grounds for these investigations were failure to observe the provisions of anti-laundering legislation and significant deficiencies in the work of the auditors concerned noted during the performance of quality controls by the IRE. However, none of the cases was linked to corruption offences.

### III. CONCLUSIONS

75. **In view of the above, GRECO concludes that Luxembourg has implemented satisfactorily or satisfactorily dealt with less than one-quarter of the recommendations contained in the Second Round Evaluation Report.** Recommendations vi and x have been implemented satisfactorily. Recommendation iv has been dealt with in a satisfactory manner. Recommendations i, ii, iii, v, vii, viii, ix, xii and xiii have been partly implemented and recommendation xi has not been implemented.
76. GRECO notes a fairly significant shortfall in the implementation of the recommendations contained in the second-round evaluation report. It nonetheless expects the Luxembourg authorities to do everything necessary to bring to completion the numerous legislative initiatives referred to in this respect. It urges the authorities of Luxembourg to speed up the reform process so as to show tangible results in the effective implementation of the recommendations as soon as possible.
77. GRECO invites the Head of the Luxembourg delegation to submit additional information regarding the implementation of recommendations i, ii, iii, v, vii, viii, ix, xi, xii and xiii by 30 November 2007 at the latest.