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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Poland

Adopted by GRECO
at its 39th Plenary Meeting
(Strasbourg, 6-10 October 2008)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Poland at its 18th Plenary Meeting (10-14 May 2004). This report (Greco Eval II Rep (2003) 6E), which contains 9 recommendations addressed to Poland, was made public on 18 May 2004.
2. Poland submitted the Situation Report required under the GRECO compliance procedure on 28 March 2006. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC-Report) on Poland at its 29th Plenary Meeting (19-23 June 2006). This last report was made public on 22 January 2007. The Compliance Report (Greco RC-II (2006) 5E) concluded that recommendations i, ii, iii, v and vii have been implemented satisfactorily, recommendations iv and viii have been dealt with in a satisfactory manner, recommendation ix has been partly implemented and recommendation vi has not been implemented; GRECO requested additional information on their implementation. This information was provided on 17 March 2008.
3. The purpose of this Addendum to the Second Round Compliance Report is, in accordance with Rule 31, paragraph 9.1 of GRECO's Rules of Procedure, to appraise the implementation of recommendations vi and ix in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation vi.

4. *GRECO recommended to extend the scope of application of the Act on Restricting Pursuit of Business Activity of Persons Performing Public Functions and of the Act on Civil Service aimed at prohibiting "pantouflage" (i.e. the improper movement of a public official to the private sector).*
5. GRECO recalls that in the Second Round Compliance Report on Poland note was taken of an unsuccessful attempt, on the basis of the Anti-Corruption Strategy (2002-2009), to change the legislation with regard to public officials' possibilities to conduct economic activities in conflict with their public position. Although the Government decided to pursue this matter, the shortcomings identified – in particular, the limitation of the prohibition of "pantouflage" (to situations where a public official has taken decisions "concerning individual matters" related to the private entity to which s/he wants to move, and only for a period of one year after leaving a post in the public service) – remained at the time of the adoption of the Compliance Report. GRECO therefore concluded that the recommendation had not been implemented.
6. The Polish authorities now state that in March 2007, the Government submitted to Parliament a draft law concerning restrictions on the performing of public functions, aimed at, *inter alia*, extending the prohibition on improper movements of public officials to private entities to include all situations where s/he has, in his/her exercise of control over the private sector concerned, taken any kind of decision and at extending the period of this prohibition from one to three years. However, following the dissolution of Parliament in November 2007, the draft law was not further processed, and was not taken up by the new Government. Nevertheless, the authorities indicate that the issue has recently been submitted to the Special Governmental Commissioner who is in charge of elaborating a "programme on preventing irregularities in public institutions". They specify that this programme should result in a comprehensive draft Act which would include the prohibition of "pantouflage" for a period of three years, but explain that no timeframe for the adoption of the draft Act by Government or by Parliament has been indicated yet.

7. GRECO takes note of the information provided with regard to the latest attempt in 2007 to amend legislation concerning restrictions on the performing of public functions, and it acknowledges that the draft law as it has been explained by the authorities addressed the specific concerns expressed by GRECO in this respect. However, as this draft legislation is no longer on the agenda and no other concrete measure has been reported, the situation remains unchanged. Thus this recommendation has still not been implemented. GRECO urges the authorities to take account of this matter and is pleased that it has been submitted to the Special Governmental Commissioner in charge of the “programme on preventing irregularities in public institutions”.
8. GRECO concludes that recommendation vi has not been implemented.

Recommendation ix.

9. *GRECO recommended to establish special training and/or guidelines for the tax authorities concerning the detection of corruption offences and the effective fulfilment of their reporting obligation under the Code of Criminal Procedure.*
10. GRECO recalls that this recommendation was previously considered partly implemented as the training sessions organised for tax authorities appeared to be of a general nature and not devoted precisely to the detection of corruption offences and the effective fulfilment of their reporting obligation under the Code of Criminal Procedure.
11. The Polish authorities now report that in the framework of the “Programme on Combating Corruption – Anti-corruption Strategy (Phase II of Implementation) for the years 2005-2009”, training activities have been prepared for officials subordinate to the Ministry of Finance, including three modules dealing with the detection and prevention of corruption, namely professional ethics, corruption offences and cooperation of fiscal authorities with the Police. Two training sessions for 72 fiscal control inspectors and officers of the tax control offices were organised in 2007. Moreover, the authorities indicate that in the framework of the “Transition Facility Programme” of 2005, the Ministry of the Interior and Administration organised, in 2007, seminars on enhancing anti-corruption activities in Poland, including on the detection of corruption and on reporting obligations, for 50 officers of the Fiscal Control Offices and 15 officials of the Fiscal Control Department of the Ministry of Finance. Furthermore, the authorities state that specialised training courses for officers of the Fiscal Intelligence Service (one-week operational training for 60 officers in 2006 and 2007) on the same topics. Finally, the authorities state that a new training module is planned in 2008, including education of trainers within the fiscal administration, and that further measures for the prevention and the fight against corruption are currently being prepared, *inter alia*, the elaboration by the Ministry of Finance of guidelines for tax authorities on how to deal with corruption offences as well as the preparation of guidelines on the detection of concealed bribes in the process of fiscal and customs inspections.
12. GRECO is pleased to note that a number of training activities for tax authorities, including on the detection of corruption and on reporting obligations, have been organised. GRECO also notes that further training activities as well as guidelines in this area are under preparation, and encourages the authorities to pursue the reported measures in order to effectively prevent and combat corruption.
13. GRECO concludes that recommendation ix has been implemented satisfactorily.

III. CONCLUSION

14. In addition to the conclusions contained in the Second Round Compliance Report on Poland and in view of the above, GRECO concludes that recommendation ix has been implemented satisfactorily and recommendation vi has not been implemented. GRECO welcomes the fact that almost all of the nine recommendations addressed to Poland in the Second Round Evaluation Report have been implemented satisfactorily or dealt with in a satisfactory manner. Nevertheless, GRECO invites the authorities to step up their efforts to take measures in respect of the prohibition of improper movements by public officials to private entities as required by recommendation vi. GRECO acknowledges that several attempts have been made to implement this recommendation by legal amendment and encourages the authorities to vigorously pursue the current legislative project in this respect.
15. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Poland. The Polish authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendation vi.
16. Finally, GRECO invites the Polish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.