



Groupe d'Etats contre la corruption
Group of States against corruption

DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS
DIRECTORATE OF MONITORING



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 3 December 2010

Public
Greco RC-I/II (2010) 2E

Joint First and Second Round Evaluation

Compliance Report on the Russian Federation

Adopted by GRECO
at its 49th Plenary Meeting
(Strasbourg, 29 November – 3 December 2010)

I. INTRODUCTION

1. GRECO adopted the Joint First and Second Round Evaluation Report on the Russian Federation at its 40th Plenary Meeting (Strasbourg, 1-5 December 2008). This report (Greco Eval I-II Rep (2008) 2E) was made public by GRECO on 30 April 2009.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of the Russian Federation submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 30 June 2010.
3. At its 40th Plenary Meeting (1-5 December 2008), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Austria and "the former Yugoslav Republic of Macedonia" to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Christian MANQUET, Head of Unit, Directorate for Penal Legislation, Federal Ministry of Justice on behalf of Austria and Ms Slagjana TASEVA, Professor of Criminal Law, Dean of the Faculty of Law, on behalf of "the former Yugoslav Republic of Macedonia". 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 the Russian Federation to comply with the recommendations contained in the Joint First and Second Round Evaluation Report.

II. ANALYSIS

5. It was recalled that GRECO in its Joint Evaluation Report addressed 26 recommendations to the Russian Federation. Compliance with these recommendations is dealt with below.

Recommendation i.

6. *GRECO recommended to establish a comprehensive national anti-corruption strategy, on the basis of the National Anti-corruption Plan (NACP), covering the federal, regional and local levels of the Russian Federation. The strategy should place a strong emphasis on corruption prevention and transparency of public administration and must give proper attention to civil society concerns; it should also cover all public sectors concerned, including the law enforcement, and be accompanied by a realistic and binding timeframe for its implementation. The strategy and the plan of action should be made widely known to ensure a high degree of public awareness of the strategy and the measures to be taken.*
7. The authorities of the Russian Federation report in essence that the "National anti-corruption Strategy (Strategy) and the National Anti-Corruption Plan (NACP) for 2010-2011 were adopted through a Presidential Decree of 13 April 2010 (#460). These documents cover the areas in which the authorities intend to combat corruption, including federal, regional and local levels as well in law enforcement. The authorities explain that the Strategy is a general policy document, the provisions of which aim at eliminating the core reasons for corruption in society at large and which take account of the particular demands of the NACP. The Strategy provides for the establishment of a modern legal and organisational basis for the fight against corruption and measures to make sure that legal acts and managerial decisions are executed as intended by the authorities. Prevention of corruption is, according to the authorities, a major principle of the Strategy. The authorities also submit that the Strategy emphasises the importance of providing for the participation of the "institutes of civil society" in counteracting corruption; enhancing the

efficiency of the federal bodies of state power, other state bodies, bodies of state power of the subjects of the Russian Federation and the bodies of local self-government in fighting corruption; improving the system of registering and bookkeeping of state property and evaluating the efficiency of its management and disposal"; improving the conditions, procedures and mechanisms of state and municipal tenders; enhancing the quality of professional training of specialists in the sphere of organisation of prevention and immediate counteraction to corruption; increasing the efficiency of the participation of the Russian Federation in international cooperation against corruption, including the elaboration of an organisational basis for regional anti-corruption, providing assistance to other states in order to train specialists and to study the causes and reasons for and consequences of corruption.

8. The authorities furthermore stress that the NACP is an instrument for putting the Strategy into practice by establishing a systematic list of anti-corruption measures, including the executors of the various measures, deadlines and indicators of the expected results. In order to implement the Law on Combating Corruption of 25 December 2008 (#273-FZ), the NACP contains a number of instructions to the Government of the Russian Federation, the Director of the Administration of the President of the Russian Federation, the Chairman of the Presidium of the Presidential Council on Counteracting Corruption, the Prosecutor General, the Ministry of Justice of the Russian Federation, Ministry of Foreign Affairs, Ministry of Finance, Ministry of the Interior, and the Federal Service of Security, indicating specific time limits to realise the relevant measures.
9. GRECO welcomes that the President of the Russian Federation has adopted the "National Anti-Corruption Strategy (Strategy) as a general policy document addressing the causes of corruption and providing the basis of the fight against this phenomenon in the future. The adoption of the National Anti-Corruption Plan (NACP) for 2010-2011, including the various measures for counteracting corruption, is the tool for the implementation of the Strategy. These complementary instruments are wide in their approach in addressing various fields of public administration at different levels and are aimed at strengthening preventive as well as repressive measures against corruption.
10. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

11. *GRECO recommended that the new Presidential Council on Counteracting Corruption be provided with a broader representation in order to better reflect the interests of the regions as well as those of civil society.*
12. The authorities of the Russian Federation report that on 31 March 2010, a Presidential Decree "on Making Amendments to the Presidential Council on Counteracting Corruption and to the Presidium of this Council" (#396) was adopted, amending the President's Decree of 19 May 2008 (#815) in order to widen the composition of the Presidential Council on Counteracting Corruption. The authorities submit that the new composition of the Council now comprises leading public representatives and scientists, including from various regions of Russia (almost all federal constituencies are covered) and several non-governmental organisations. The following representatives have been added to the Presidium of the Council: a member of the Public Chamber of the Russian Federation (the Republic of Sakha-Yakutia); a member of the Public Chamber of the Russian Federation (the Kursk region); the Director of the branch of the Russian Academy of Science, the Institute of Philosophy and Law of the Ural Branch of the Russian Academy of Science (the Sverdlovsk region); a member-correspondent of the Russian Academy

of Science, Doctor of Law Sciences; and a Doctor of Economic Sciences. The authorities also submit that by virtue of the Decree of the President of the Russian Federation (#1336), dated 4 November 2010, the Mayor of Moscow was included as a member of the Presidential Council and its Presidium.

13. The authorities furthermore submit that a Working Group on the cooperation with civil society representatives was formed under the Presidium of the Council of Counteracting Corruption, (according to the Minutes, No.3 of a Council meeting of 6 April 2010) with the following representatives: the Head of the Volga region centre for counteracting extremism and corruption; the Chair of the Commission of anti-corruption education and propagation of the Republican Council of anti-corruption policy in the Republic of Tatarstan; a member of the Public Chamber of the Russian Federation; the Chair of the board of the non-profit fund "*the Institution of democracies and cooperation*"; the Chair of the Council of the All-Russian public organisation "*Civil Society*"; the Vice-President of the Court of Auditors (who has also published articles etc concerning corruption); the President of the Fund "*Center for Political Technologies*" (who has also published articles etc concerning corruption).
14. GRECO takes note of the information provided and welcomes that the Russian authorities have enlarged the composition of the Presidential Council, which now includes a broader regional representation as well as representatives of various academic disciplines and non-governmental organisations, as defined under the domestic system, ie members of the Public Chamber of the Russian Federation. GRECO furthermore notes that civil society representation is also available to the Council through the Working Group, the aim of which is to provide civil society input to the Council. In the light of the foregoing, GRECO concludes that Russia has dealt with all the components of the current recommendation. Having said that, it appears that the current composition of the Presidential Council or the Working Group could well be complemented with further civil society input from other non-governmental organisations with an anti-corruption agenda, preferably, also with international experience. In this context, GRECO was informed by the Russian authorities that Transparency International, which is not represented in the Presidential Council nor in the Working Group, is involved in the work of another commission under the Administration of the President of the Russian Federation, dealing with transparency issues.
15. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

16. *GRECO recommended to develop systems for monitoring in a comprehensive, objective and ongoing manner the practical impact on the various sectors concerned of the anti-corruption measures introduced, including the evolution of the levels of corruption in these sectors over time. It should be ensured that civil society is in a position to provide input to, and to make its views known on the outcome of such monitoring*
17. The authorities of the Russian Federation report that the Presidium of the Presidential Council on Counteracting Corruption considered it expedient to conduct sociological research in 2010-2011 in order to monitor the situation concerning corruption in the Russian Federation, to evaluate the existing levels and structures of corruption and the efficiency of the anticorruption measures taken (meeting on 4 March 2010, paragraph 2 Protocol #3). As a consequence, it is foreseen in the NACP 2010-2011 that the Government of the Russian Federation is to conduct sociological research at various layers of society in different regions of the country, which should permit

evaluation of the level of corruption in the Russian Federation as a whole and of the efficiency of the anticorruption measures taken, with special consideration given to the views on this issue coming from representatives of the civil society (Subparagraph “c” paragraph 2 of the NACP 2010-2011), ie the Working Group on the cooperation with civil society representatives.

18. The authorities furthermore report that the Department on Civil Service Issues and the Control Department of the President of the Russian Federation are entrusted with systematic monitoring of the realisation of anti-corruption measures, which are undertaken within the framework of the activities of the Presidential Council on Counteracting Corruption: The Chairman of this Council is to be informed twice per year on the results of the monitoring conducted. Moreover, the Ministry of Justice has been given a mandate to conduct monitoring of the application of laws in order to study their efficiency in fighting corruption. For this purpose a special division within the Ministry of Justice has been set up: the “Department for Draft Laws and Monitoring of their Application (implementation)”. The authorities state that a first monitoring of the efficiency of the law enforcement agencies has been carried out. Moreover, a joint venture has been established between the Ministry of Justice, the Ministry of Economic Development and the Department of the President of the Russian Federation on the efficiency of anti-corruption measures taken in the various subjects of the Russian Federation. The authorities are currently in the process of finalising the results of a survey based on a questionnaire developed by the Ministry of Justice and Economic Development, addressed to citizens, representatives of political parties, public associations, institutions of the civil society (including lawyers and notaries) and the scientific community. The non-governmental organisation “All Russian Social Fund “Public Opinion” was instrumental in conducting this work, as contracted by the Government. The survey was carried out in 70 constituencies, representing all federal districts of the Russian Federation. According to the authorities, the results of the survey allows for an assessment of the corruption situation in the Russian Federation, in particular, in respect of citizens’ interaction with public authorities. In addition, the authorities report that it has been decided to also carry out an assessment on corruption issues in the business sector and its interaction with state functions and efficiency concerning public services, law enforcement etc. The authorities also submit that the Ministry of Economic Development is entrusted to regularly conduct monitoring of the implementation of anti-corruption measures at departmental level. Finally, the Presidium of the Presidential Council has decided that the Control Department together with the Department of the President of the Russian Federation are to control the implementation of the Presidium’s decisions in quarterly reports.
19. GRECO recalls the assessment contained in the Evaluation report (paragraph 59) according to which the implementation of the impressive number of initiatives in the Russian Federation to fight corruption, in particular legal acts and norms established, is difficult to follow and assess and that it would appear that the number of new initiatives to fight corruption continues to be on a large scale, not least in light of the measures foreseen in the NACP. GRECO also reiterates its earlier position that a meaningful evaluation of the real impact of various measures needs different tools and that measures implemented cannot be assessed until they have taken full effect (paragraph 59). GRECO therefore appreciates that the Presidential Council and its Presidium on Counteracting Corruption have established various organisational frameworks for the monitoring of the implementation of anti-corruption measures and their possible impact. It notes in particular that certain State institutions have been involved in this process together with one non-governmental organisation “All Russian social fund *Public Opinion*” and that input from the Working Group on the cooperation with civil society representatives under the Presidential Council is foreseen. GRECO wishes to stress in this context that evaluations of measures taken by state organs would benefit from being as independent from the state as possible, in order to

be carried out in an unprejudiced way as well as to be trusted by society at large. Such independence can be achieved with a strong component of civil society involvement. GRECO welcomes that a comprehensive monitoring system has been put in place, however, in line with the conclusion regarding Recommendation iii, GRECO encourages the Russian Federation to continue its efforts to make the monitoring as open and sensitive as possible towards input from civil society, in particular through the involvement of representatives who are specialised in anti-corruption issues. GRECO notes in this respect that such involvement may take different forms and cooperation and must not necessarily imply full participation in government structures.

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

Recommendation iv.

21. *GRECO recommended to review the system of administrative and criminal procedures in order to firmly establish that cases of corruption are to be treated as criminal offences as a main rule.*
22. The authorities of the Russian Federation report that article 1 of the Law on Combating Corruption”, adopted on 25 December 2008 (# 273-FZ) defines corruption as “*abuse of official position, giving a bribe, receiving a bribe, abuse of powers, a commercial graft or any other illegal use of his/her official position by an individual contrary to the legal interests of the society and state in order to receive profit or benefit in the form of money, valuables, other property and services of property nature, other property rights for himself/herself or for the third persons or illegal presenting of such advantage to the above mentioned person by other individuals as well as committing the above mentioned actions on behalf or in the interests of a legal entity*”. The authorities state that this definition includes the corruption provisions of the specific articles of the Criminal Code, i.e. it enumerates the acts for which criminal liability is established by the laws of the Russian Federation.
23. The authorities furthermore submit that the only type of offence of a corrupt nature for which the laws of the Russian Federation envisage administrative liability is “illegal reward” (compensation) from a legal entity, according to article 19.28 of the Code of Administrative Offences of the Russian Federation (CAO), and that only a legal entity may become the subject of this offence. This article stipulates administrative liability for illegal transfer, on behalf of or in the interests of a legal entity to the official or to the person who is executing managerial functions in a commercial or any other organisation, of money, securities, other property and illegal rendering of services for the action (or omission), conducted in the interests of the legal entity by an official or by a person who is executing managerial functions in a commercial or any other organisation connected to his/her official position. The authorities submit that according to Article 13 of the Law on Combating Corruption, individuals who commit corruption offences can be brought not only to criminal but also to administrative or civil proceedings and liability for corruption. However, the definition contained in the Law on Combating Corruption “first of all assumes the illegal acts for which criminal liability is established”, according to the authorities. The pertinent offences of the Criminal Code are abuse of official position (Article 285 CC), giving a bribe (Article 291 CC), receiving a bribe (Article 290 CC), abuse of powers (Article 201 CC) and commercial gift (Article 204 CC), also according to the authorities. They furthermore state that there is no clear cut list of corruption crimes, administrative and disciplinary offences in the legislation, a situation which has led to some uncertainty for the law enforcement in practice. In order to remedy this, a list of corruption offences was established by instructions of the Prosecutor General in 1986 (No. 187/86) and the Ministry of Internal Affairs in 2010 (No2). It contains 38 offences. Furthermore, an unofficial list of administrative corruption offences, containing 11 offences, was drawn up

following the adoption of the Law on Combating Corruption. In addition, the authorities have submitted a comprehensive table containing corruption offences of the Criminal Code as compared with administrative corruption offences. Moreover, it is concluded at the end of the table that currently “*corruption cases are considered mostly as criminal cases*”.

24. GRECO takes note of the information provided. It recalls the description contained in the Evaluation report (paragraph 46): “*Administrative offences of a corruptive nature are violations of the law encroaching on the rights of citizens, in particular during preparation for and conduct of elections and referenda (Articles 5.2, 5.5 - 5.13, 5.15-5.25 CAO) and other infringements of officials of public bodies and establishments, officials of commercial and other organisations, petty misappropriation through embezzlement (Article 7.27 CAO); restriction of the freedom of trade (Article 14.9 CAO); misuse of budgetary means (Article 15.14 CAO); use of service information on the market of securities (Article 15.21 CAO); violation of the terms of consideration of applications (requests) for land or water object provision (Article 19.9 CAO)*”. Most of these offences are not contained in the above mentioned table. Furthermore, GRECO recalls that in the analysis of the Evaluation report (paragraph 61) the situation of administrative and criminal law procedures in parallel “*appears to give the authorities rather wide discretionary powers to decide which procedure to follow in individual cases and there seems to be a grey zone where the two systems overlap*”...“*which affords opportunities for manipulations*”. It was in the light of these remarks that the current recommendation was adopted. GRECO notes that the authorities have provided valuable explanations in respect of the complexity of the current system and that the documents provided may be of some help to better understand the coexistence of administrative and criminal procedures for dealing with corruption. Moreover, the submitted information may even be used as soft guidelines in order to give priority to criminal proceedings for corruption offences, however, they can not be seen as more than preparations for a review of the system of administrative and criminal procedures. GRECO does not agree that the legal measure reported, ie the general definition of corruption contained in the 2008 Law on Combating Corruption, can have a decisive effect upon the selection of criminal or administrative proceedings. Consequently, the issue raised in the Evaluation report (paragraph 61) that the existence of two parallel procedures in respect of corruption offences affords opportunities for manipulation, for example, to escape the justice process, even if in theory the criminal justice process is to be given priority, remains the same.
25. GRECO concludes that recommendation iv has not been implemented.

Recommendation v.

26. *GRECO recommended that precise guidelines for the distribution of corruption cases between the various law enforcement agencies/departments be established.*
27. The authorities of the Russian Federation report that the Prosecutor General’s Office of the Russian Federation had prepared draft amendments to article 151 of the Federal Code of Criminal Proceedings (CPC), according to which the duty to investigate criminal cases of bribery were to be entrusted to the investigation divisions of the Investigation Committee under the Prosecutor General’s Office of the Russian Federation, except for cases where indications of a crime (*corpus delicti*), envisaged by article 290 of the Criminal Code of the Russian Federation (receiving a bribe), and article 291 of the Criminal Code of the Russian Federation (giving a bribe), were detected in the course of the investigation of other crimes which had been initiated under other articles of the Criminal Code of the Russian Federation. In such cases further investigations are to be conducted by the investigators of the bodies of the Ministry of the Interior.

However, these draft legislative changes had to be postponed and further considered in the light of more recent reforms relating to the investigation bodies, in particular the decision to transfer the Investigation Committee from the Prosecutor General's Office to become the Investigation Committee of the Russian Federation and thus separated from the Prosecution Service. GRECO was informed, at the time of the adoption of the current report, that the draft Law (431376-5) on the "Investigative Committee of the Russian Federation" and the draft Law (431372-5) on amendments to some federal constitutional laws due to the improvements in the activities of the investigative bodies", both had passed the second reading in the State Duma on 29 November 2010. Further changes are expected in respect of the interior bodies and a draft law on the Police is currently before the State Duma.

28. The authorities also refer to a Joint Order of the Prosecutor General's Office of the Russian Federation and the Ministry of the Interior (adopted on 30 April 2010) which took effect as from 1 January 2010, providing a list of criminal acts which may be attributed to corruption if they comply with a number of different criteria, such as the presence of the relevant elements of the criminally punishable action, the connection of the act with the official position of the offender etc. It is explained that this organisational and distributive instrument is considered necessary in order to establish reliable statistical data and indicators about the detection, investigation and examination of the crimes of this category.
29. GRECO notes that the new legislation concerning the establishment of the Investigative Committee, directly under the executive powers, however, outside the structures of the Prosecution Service, will – as a main rule – centralise the investigation of crimes (including corruption) in a single institution. Prior to this, the Prosecutor General's Office had prepared draft legislation on the allocation of corruption cases to the pertinent investigate authority, however, in the light of the very recent reform concerning the Investigation Committee, other draft legislation need further consideration, according to the authorities. GRECO wishes to stress that objective criteria needs to be established for the allocation of corruption cases to all pertinent authorities, such as the Prosecution Service, the Police as well as the Federal Security Service (FSB). No final draft amendments to the CPC have yet been approved. Concerning the Joint Agreement between the Prosecutor General's Office and the Ministry of the Interior, GRECO takes the view that this is more about establishing criteria for statistical purposes which although useful, are not really pertinent for the allocation of corruption cases among law enforcement agencies. However, the recently adopted legislation relating to the Investigation Committee can be expected to have a considerable impact on the allocation of criminal cases, including corruption, to this single body as a main rule. The implementation of this reform as well as the possible need for additional regulations on the distribution of corruption cases is still pending. Moreover, it would appear important to connect further measures in this respect with the measures reported under recommendation vi, in particular as regards the coordinating role given to the Prosecutor General's Office.
30. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

31. *GRECO recommended to further enhance the coordination between various law enforcement agencies involved in investigations of corruption and to examine the advisability of developing a centralised support mechanism to assist law enforcement agencies in investigating corruption.*

32. The authorities of the Russian Federation report that the Federal Law on Combating Corruption” of 25 December 2008 (#273-FZ), subparagraph 6 article 5 provides that the Prosecutor General and subordinated prosecutors are to coordinate, within their competence, the activities of the bodies of the Ministry of the Interior, the bodies of Federal Security Service, Customs bodies of the Russian Federation and other law enforcement agencies in combating corruption. Moreover, the National Anti-Corruption Plan (NACP) 2010-2011 includes an order to the Prosecutor General to pay special attention to the possibility of coordination meetings, as stipulated already by article 8 of the Federal Law on Prosecutor’s Office (1992, #2202-1), according to which the same kind of coordination is to be carried out by the Prosecutor General and subordinate prosecutors in respect of any crime.
33. The authorities furthermore report that in accordance with an order of the Prosecutor General “on Improvement of the Organisation of the Prosecutor’s Supervision over the Execution of Laws on Combating Corruption” of 1 October 2008 (Order #196), permanent interdepartmental working groups have been established in the prosecutor’s offices of the subjects of the Russian Federation, prosecutors’ offices of cities and districts, military and other specialised prosecutors’ offices: The representatives of law enforcement agencies (Ministry of the Interior) and controlling and supervisory bodies are also members of these groups. Furthermore, on 6 February 2009, the Prosecutor General adopted and put into operation a statistical report (Order #31), containing data on the supervision of the execution of laws on combating corruption and on the results of investigation of corruption cases. According to the report, in 2009 the bodies of the Prosecutor’s Office conducted in total 3 724 coordination meetings between directors of law enforcement bodies in relation to corruption cases and 4 367 questions were examined; 4 521 interdepartmental meetings on these issues were conducted and 4 634 operative meetings were held with participation of directors of Prosecutors’ Offices and law enforcement bodies. Moreover, 2 321 “joint measures” were taken in order to prevent and reveal corruption crimes.
34. The authorities also state that in accordance with a decision by directors of law enforcement bodies in September 2008 (Order #1), the Academy of the Prosecutor General’s Office (as coordinator) jointly with the educational institutions of the Ministry of the Interior, the Federal Security Service, Federal Service of Control over Drugs and the Federal Customs Service are examining questions relating to the fight against corruption and, in that context, are elaborating proposals to better coordinate the investigation of corruption in line with the defined main directions provided for in the NACP. The authorities stress that as a result of the law and the NACP, the directors of the Prosecutor’s offices of all levels are to conduct coordination meetings regularly with law enforcement agencies on the most acute issues of application and enforcement of laws. On 6 October 2009, the Prosecutor General’s Office conducted a coordination meeting between the directors of law enforcement bodies of the Russian Federation, at which the participants discussed the execution of the NACP, *inter alia*, the status of cooperation and interaction between the bodies of the Prosecutor’s Office and other law enforcement agencies in the investigation of crime. The meeting concluded, *inter alia*, that additional measures on coordination were to be taken.
35. In relation to the second half of the recommendation, the Russian authorities report that within the framework of the above interdepartmental working groups coordinated by the Office of the Prosecutor General of the Russian Federation, subordinate prosecutors inform the Prosecutor General’s Office on the results of their work regularly (every quarter). This interdepartmental exchange of operative information about anti-corruption actions, comprising bodies of state power and administration, bodies of local self-government as well as specialised institutions is centralised through the Prosecutor General’s Office of the Russian Federation. Furthermore the

NACP contains instructions to the Prosecutor General to inform the Presidential Council on Counteracting Corruption annually about the results of this coordinating work.

36. GRECO takes note of the initiatives launched in order to enhance the coordination between the various law enforcement agencies in Russia. GRECO is pleased to learn that the National Anti-Corruption Plan (NACP), as a starting point, contains clear instructions to this end and that the Prosecutor General's Office plays a key role for the coordination. Several regulations and instructions have been issued and a number of meetings between the agencies concerned have also been held. GRECO appreciates that this process, considering the size of the country and the vast number of law enforcement agencies concerned, is an immense task which will take a long time to fully materialise. Nevertheless, the established structures need to be evaluated once they have been operational for some time. At the current stage, GRECO considers that the measures reported have the potential of enhancing the coordination between various law enforcement bodies. It also follows from the information provided that the authorities have not only examined the advisability of developing a centralised support mechanism, but also entered into a centralised structure for reporting, which in the future may possibly be transformed into a support mechanism for the law enforcement agencies. However, these measures need to be fine-tuned in the light of the recent establishment of the Investigation Committee, see recommendation v.
37. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

38. *GRECO recommended that the operational independence of law enforcement agencies and their investigative staff be strengthened and governed by appropriate checks and balances under the Rule of Law and that the material conditions of law enforcement personnel be reconsidered in this context.*
39. The authorities of the Russian Federation stress that the operative independence of investigative bodies and their investigative staff was provided for according to a reform, launched at the end of 2007, the essence of which was to separate the investigation from the supervision over investigation, as conducted by the bodies of the Prosecutor's Office at the time. The amendments, made by Federal Law #87-FZ, of 5 June 2007, to the Code of Criminal Procedure and to the Federal Law on the Prosecutor's Office of the Russian Federation, which entered into force on 7 September 2007, provides for the establishment of separate divisions of the investigation bodies, which are independent in their organisation, structure, staffing and in respect of decisions about procedure, from the bodies of the Prosecutor's Offices and other law enforcement agencies. The supervisory function was instead given to the Investigation Committees under the Prosecutors' Offices. (However, the Investigation Committee was in 2010 separated from the Prosecution Service, according to the authorities, see recommendation v). The authorities furthermore explain that a similar structure was established for the Investigation Committees under the Ministry of the Interior of the Russian Federation which were formed according to Order #1422 of the President of the Russian Federation "On the Measure of Enhancement of the Organisation of Preliminary Investigation in the System of the Ministry of the Interior of the Russian Federation", dated 23 November 1998. To improve the functional independence of the bodies of preliminary investigation, the Head of the Investigation Committee under the Ministry of the Interior was upgraded to Deputy Minister of Interior (1998).
40. As regards measures taken following the adoption of the Evaluation report, the authorities stress that discussions about raising the salaries and housing benefits for militia staff in order to

increase their independence has been discussed within in 2009/2010. Subsequently, in accordance with an order of the President of the Russian Federation on reforming the Ministry of the Interior (Order of 18 February 2010, #208), the Government is entrusted with considering additional budget allowances to the Ministry of the Interior of the Russian Federation to increase the salaries of the employees and to form a specialised housing fund within the framework of the execution of the Federal Budget for 2010.

41. GRECO recalls that the main reasons for this recommendation (Evaluation report, paragraph 144) were that it considered that in a rigid hierarchical system where there is a low level of operational independence of the individual law enforcement personnel, there is always a risk of improper influence from within the system. Therefore, GRECO concluded that strict hierarchical control within the system, aimed at preventing improper influence, needs to be balanced with an appropriate level of operational independence for those who carry out corruption investigations and their agencies and linked to that, a sufficient degree of personal accountability. What has been reported by the Russian authorities concerns, *inter alia*, organisational structures of the investigative committees as supervisory organs in respect of the operational investigative departments. The system of investigation committees was already in place well before the on-site visit to Russia and its organisation is also reflected in the Evaluation report. The steps taken as a result of the current recommendation concern the material conditions of law enforcement personnel, such as salaries and benefits connected to their positions. GRECO acknowledges that low salaries and poor working conditions may have a negative impact on the independence of law enforcement personnel, and that improvements in this respect could assist in creating more independent law enforcement agents. However, the reforms launched are still in the preparatory stages. Furthermore, GRECO notes that no action has apparently been taken in respect of the organisation and procedures of the work within the law enforcement agencies which would strengthen the operational independence of the personnel carrying out investigative tasks, nor about their accountability. GRECO therefore urges the Russian authorities to rigorously pursue the work to improve the operational independence and accountability of law enforcement personnel. Also these measures need to be fine-tuned in light of the recent establishment of the Investigation Committee, see recommendation v.
42. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

43. *GRECO recommended to establish a recruitment procedure for prosecutors at all levels based on objective criteria.*
44. The authorities of the Russian Federation refer to Article 40 of the Federal Law “on Prosecutor’s Office of the Russian Federation” of 17 January 1992 (#2202-1), which sets a list of requirements of candidates to become prosecutors based on objective criteria, such as: higher education (bachelor, specialist or master degree in law from university) which has state accreditation; the candidate must not be a citizen of a foreign state; there must be no decisions of the court about the incapacity of the person or limited capacity or about deprivation of the right to hold state positions in civil service; the person must not be convicted of an offence and must not have any disease that will impede him in executing his official duties. The authorities add that the objective nature of the above mentioned requirements is preconditioned by the examination of official documents or data, submitted by authorised state bodies or officials. Conclusions that the candidate has the necessary professional and moral qualities may also be made on the basis of objective and unbiased information, received from authorised state bodies or official persons as

well as through psychological tests. The authorities add that in order to implement this particular recommendation, on 9 November 2009, the Prosecutor General of the Federation of Russia adopted an instruction that the personal qualifications of all employees and applicants were to be registered by the human resources departments of the prosecutorial bodies and institutions (Order #983-k). The list of documents to be submitted by the candidate during recruitment to the bodies and institutions of prosecution service has also been defined in the document. The authorities add that in order to form highly qualified prosecutors, the Prosecutor General has issued an order in 2010 (No. 316) on the organisation of re-training of prosecution personnel and it also follows from this order that re-training will, as a rule, be a requirement for candidates to be nominated to posts. Furthermore, the authorities state that competitive procedures already apply in the selection of candidates in the anti-corruption structures and will follow generally in respect of all positions in the future.

45. GRECO notes that the background to the current recommendation, as described in the Evaluation report (paragraph 145) was that prosecutors in the Russian Federation were not recruited on a competitive basis and that some assistant prosecutors at city or district level were recruited among students who had not even finished their university studies. GRECO was of the opinion that this situation merited to be carefully assessed in order to ensure that only qualified persons, based on objective criteria, enter the prosecution service. GRECO notes that the Russian authorities, with reference to the 1992 Law on the Prosecutors Office, have taken some general measures to provide for recruitment/promotion of qualified persons through recruitment based on objective criteria as well as adopted rules clarifying which documents an applicant must submit and that these are to be filed and registered by the authorities. These measures appear to be necessary safeguards for an objective recruitment and control thereof. GRECO accepts that these measures at least go in the right direction to remedy the situation described in the Evaluation report that not fully qualified persons enter the prosecution service.
46. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

Recommendation ix.

47. *GRECO recommended that the principle of judicial independence, as provided for in the Russian Constitution and legislation, be strengthened further in practice, in particular, in respect of recruitment/promotion procedures and the exercise of judicial functions.*
48. The authorities of the Russian Federation make reference to the Law on the Status of Judges in the Russian Federation of 1992 (#3132-1), which contains a number of safeguards in order to provide for the independence of judicial power, *inter alia*, in respect of the appointment of judges; the public announcement of judges' positions; the selection is based on competition between candidates; appointment following application of the candidate and upon the approval of the qualification panel of judges, which consists of judges and representatives of the public; and the right to appeal against an appointment. The authorities also refer to the independence of judges in their functions which is pronounced in the Law on the Status of Judges and subject to sanctions. Furthermore, the authorities stress that judges are provided with material benefits and social welfare, corresponding to the status of judges and for the purpose of securing judges' independence.
49. In addition, the authorities report some novelties in legislation as a result of the adoption of the Law on Combating Corruption and the Law of 25 December 2008 (# 274-FZ) "on Making Amendments to Separate Legislative Acts". The latter law contains, *inter alia*, changes to the

1992 Law on the Status of Judges, *inter alia*, making more specific the requirements applying to judges, such as rules to prevent conflicts of interest (article 3) and qualification requirements of candidates to the position of a judge (article 4), the order of the selection of candidates for the position of a judge (article 5), the order of judges' authority (empowering) (article 6), the order of submission of data on the income of judges and their property (article 8.1). Moreover, according to Law #157-FZ of 17 July 2009, also amending the Law on the Status of Judges, the initial appointment limitation (3 years) of the federal judges does no longer exist. This amendment thus establishes that the initial appointment of such judges is without any time limit in order to widen the application of the principle of more secure employment of judges as a guarantee for their independence. Moreover, in respect of the judges to the Supreme Court and the the High Commercial Court, these are appointed by the Council of Federation (Parliament), as before, following nominations by the President of the Russian Federation, as before, however, the President is now to be consulted by the Chairpersons of these Courts (and not by the Presidential Commission, as before).

50. The authorities furthermore report that the Federal Constitutional Law "on Disciplinary Judicial Panel" was adopted on 9 November 2009 (#4-FKZ) envisaging the creation of a special body - the Disciplinary Judicial Panel - which consists only of judges of the Supreme Court and the High Arbitration Court of the Russian Federation (three judges each). The Disciplinary Judicial Panel is a judicial body which examines the cases of complaints against decisions of the High Qualification Panel of Judges of the Russian Federation and qualification panels of judges of the subjects of the Russian Federation about early termination as a result of misconduct. Upon examination of complaints and applications, the Disciplinary Judicial Panel adopts a motivated final decision either to uphold or to quash the decision of the Qualification Panel of Judges. On 4 February 2010, the Plenum of the Supreme Court and the High Arbitration Court adopted rules of procedure of the Disciplinary Judicial Panel (#3/2).
51. Finally, the Russian authorities report that the President of the Federation, according to an Instruction of 31 December 2008 (#Pr-2801) addressed a number of measures concerning the Judicial system, including the updating of the Federal Law on Justice. This followed a call from the Constitutional Court of 25 January 2001 concerning reimbursement of damage caused by the State through illegal action by a court (a judge) according to the Civil Code. The level of salaries paid to court employees was also to be raised.
52. GRECO recalls the statement in the Evaluation report: "*Despite the establishment of a Constitutional and legislative framework of the judiciary and safeguards aiming at providing for the independence of judges, there appears to be a common understanding in Russia among officials and civil society representatives that the judiciary is broadly affected by undue influence and corruption*" (paragraph 147). It is also stated in the Evaluation report that it is not sufficient that the Constitution and legislation provides for independence of the Judiciary, but that these principles must be rigorously implemented in practice (paragraph 148). The Evaluation report focuses in particular on the process of appointment of judges, where the Executive branch appears to be over influential, for a number of reasons as explained in the report (paragraph 149). Another area of concern was that the establishment of judicial practice was not free of influence from outside the judiciary; the Plenum of the Supreme Court, which among other things, establishes judicial practice, is not only composed of Supreme Court judges, but also representatives of the Prosecutor General and the Ministry of Justice (however, with no voting rights, as noted in the Evaluation report).

53. GRECO takes note of what has been reported by the Russian authorities and justified in new legislation submitted. It welcomes that the three-year limit for the initial employment of judges has been abolished, as a measure to strengthen the independence of judges. GRECO also notes that the Disciplinary Panels of Judges are composed only of representatives from the Supreme Court and the High Arbitration Court. Furthermore, GRECO takes note of legal changes concerning the appointment procedure of judges according to which it appears that the influence from the Executive branch in respect of the appointment of judges to the Supreme Court and the Supreme Commercial Court has been slightly reduced, but not all the issues signalled in Article 149 of the Evaluation report have been addressed. Furthermore, in respect of the establishment of judicial practice (paragraph 150) nothing new has been presented that could be seen as strengthening of judicial independence. GRECO encourages the Russian authorities to address the remaining issues in future reform initiatives.
54. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

55. *GRECO recommended that systematic introductory and in-service ethics training is provided to judges of all levels and ranks in light of the “Code of Judicial Ethics” and other pertinent norms.*
56. The authorities of the Russian Federation report that within the framework of a Resolution of May 2007 (#27) concerning disciplinary liability of judges, the Plenum of the Supreme Court of the Russian Federation has provided explanations to courts on the issues of the ethics of judges and recommended the Russian Academy of Justice to prepare the training course “Ethics for Judges” for in-service training and advanced training of judges and employees of court administrations. In 2008-2009, the Academy of Justice elaborated educational and thematic training which include courses for judges and administrative personnel of courts. The training comprises lectures on the topics of ethics of judges and other related subjects. In 2009, 2618 judges of the regular courts participated in the training at the Academy’s Moscow branch of the faculty of advanced training. The training is organised every year. Furthermore, in 2009, the High Arbitration Court of the Russian Federation conducted training for judges of arbitration courts on anti-corruption issues. New editions of educational programmes for training were elaborated taking into account the specialisation of judges (company law, securities, bankruptcy, international private law, property law, contract law, tax law, administrative law etc). Training was also carried out on the issues connected to the legal amendments and changes, introduced to the Law on the Status of Judges, in connection with the adoption of the Law on Combating Corruption (2008), on issues of observance by judges of the standards of arbitration proceedings and the Code of Ethics for Judges etc. The authorities add that the High Arbitration Court constantly conducts activities on issues, concerning observance, by the judges of the Code of Ethics for Judges, maintenance of high standards of ethical behaviour while administering justice. In 2009/2010 the training and qualification programmes involved 1140 judges in total, carried out during 9 sessions, covering issues, such as judicial ethics, the status of judges, in the light of amended/new legislation, anti-corruption measures and disciplinary liability.
57. Furthermore, the Russian authorities submit that the working group of the Council of Judges of the Russian Federation has drafted a new Code of Ethics for Judges on the basis of various international instruments, such as *the European Charter on the Statute for Judges and the Council of Europe Recommendation No. R (94) 12 of the Committee of Ministers on the independence, efficiency and role of judges*. The draft text contains general provisions concerning the subject matter and the application of the Code, it defines the requirements of the

conduct of judges, principles and rules of professional conduct of a judge as well as principles and rules of judges in extra-judicial activities. The closing provisions establish the rule about the liability of judges and some definitions of the terms used in the Code are presented. The Council of Judges decided in a Resolution of 3 December 2009 (#253) to forward the draft Code to the President of the Russian Federation, the Constitutional Court, the Supreme Court, the High Arbitration Court and to councils of judges of the subjects of the Russian Federation for wide public discussion in order to present an amended text of the draft for examination by the VIIIth All-Russian Union of Judges in 2012 (held once every four years).

58. GRECO notes that the Russian authorities have not only established the basis for regular training of judges and other staff of various types of courts, but have also entered into a process of redrafting the Code of Ethics for Judges, *inter alia*, following the model of relevant Council of Europe standards. GRECO wishes to stress that the work of other Committees of the Council of Europe, such as the European Commission for the Efficiency of Justice (CEPEJ) and the Consultative Council of European Judges (CCJE) is particularly important in this respect. GRECO notes that the training carried out has included pertinent topics in line with the recommendation and involved a considerable number of judges.
59. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

60. *GRECO recommended to reduce the categories of persons enjoying immunity from prosecution to the minimum required in a democratic society.*
61. The authorities of the Russian Federation recapitulate that the categories of persons who are subject to a special order of prosecution in criminal cases, are listed in article 447 of the Criminal Procedure Code of the Russian Federation and include: members of the Federation Council of the Federal Assembly of the Russian Federation, deputies of the State Duma of the Federal Assembly of the Russian Federation; judges of the Constitutional Court of the Russian Federation, judges of the federal court of general jurisdiction or federal arbitration court, judges of peace (magistrates) and judges of the Constitutional (Charter) court of a subject of the Russian Federation, the jurors or laymen for the period when they are administering justice; the Chairman of the Audit Chamber of the Russian Federation, his deputies and auditors of the Audit Chamber of the Russian Federation, Commissioner of Human Rights in the Russian Federation (Ombudsman), the former President of the Russian Federation, prosecutors, the Chairman of the Investigation Committee under the Prosecutor's Office of the Russian Federation, directors of investigation bodies, investigators, barristers, members of the election commission and the commission of the referendum with the right to a decisive vote, registered candidates to the deputies to the State Duma, registered candidates to the deputies of the Legislative (representative) body of the state power of the subject of the Russian Federation. The decision to initiate a criminal case concerning the persons or arraigning such a person as an accused, if the criminal case was initiated in respect of other persons or on the fact of commission of an act, containing the signs of a crime, is to be adopted in the order, established by article 448 of the Code of Criminal Procedure (CPC) ("Initiation of a criminal case").
62. The authorities submit that amendments have been made to article 448 CPC through Federal Law on amendments to separate legal acts (#280-FZ), according to which certain categories of officials – prosecutors, heads of the investigation bodies, investigators, barristers (court lawyers), deputies of a legislative (representative) body of state power of a subject of the Russian

Federation – have lost their immunity. The only privilege which has remained with these officials, ensuring their independence and protection from ungrounded accusations of criminal liability due to the fact that they execute their procedural powers, is the special requirement that proceedings against them can only be initiated by the head of the senior territorial investigation body of the Investigation Committee. Thus, the decision about initiation of a criminal case or arraignment as an accused in respect of the deputy of the legislative (representative) body of state power of a subject of the Russian Federation is to be adopted by the head of the Investigation body of the Investigation Committee of the Russian Federation for the subject of the Russian Federation; in respect of a barrister - the decision will be made by the head of the Investigation body of the Investigation Committee of the Russian Federation for the subject of the Russian Federation; in respect of a prosecutor the decision is to be made by the head of the Investigation body of the Investigation Committee of the Russian Federation.

63. The authorities also submit that the Ministry of Justice has elaborated a draft law on amendments to paragraph 1 of article 447 CPC. According to the draft, the following categories of persons would also be deprived of their immunity from prosecution: lawyers, parliamentary candidates, candidate deputies of constituent elements, members of electoral commissions, members of referendum commissions. The draft legislation is currently being considered by the Government and the President of the Russian Federation.
64. GRECO recalls that the Constitution and different federal laws establish a comprehensive system of immunities from criminal proceedings and that articles 447 - 452 CPC regulate the special proceedings for lifting immunities. These regulations concern a large number of categories of officials. From what has been reported now, it appears that the initiation of criminal proceedings against prosecutors, heads of investigation bodies, investigators, lawyers and deputies of a legislative (representative) body of state power of a subject of the Russian Federation is no longer subject to permission by a special authority; however, criminal proceedings can only be initiated by a special public official. Furthermore, the Government is in the process of changing the relevant procedures for more categories of officials as well as candidate deputies as provided for in article 447 CPC. GRECO takes the view that the developments reported go in the right direction. However, GRECO recalls paragraph 176 of the Evaluation report which stresses that “*the scope of immunities appears to be wider than ever before in Russian legislation*” in the light of which the current recommendation, which calls for a reduction of categories of persons enjoying immunity from prosecution to a “*minimum required in a democratic society*”, is to be interpreted. GRECO is of the firm opinion that further efforts are required in order to fully comply with the recommendation and notes that draft legislation is being considered to this end. GRECO maintains its position that the number of officials enjoying immunity in Russia remains very high and would strongly encourage the authorities to continue their efforts to reduce the categories of persons that enjoy immunity.
65. GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii.

66. *GRECO recommended that the legal provisions underlying the current procedures for lifting immunity be thoroughly revised with a view to their simplification and to establish guidelines for their application by law enforcement officials and judges.*
67. The authorities of the Russian Federation reiterate that the various categories of persons to whom the special order of conduct of criminal cases is applied, are listed in article 447 CPC and

that the decision to initiate a criminal case against such a person or to arraign such a person as an accused is to be done in the order established by article 448 CPC. This article has been amended through the Federal Law #280-FZ and, as a result, the procedure of initiation of a criminal case and the procedure of arraignment as an accused were significantly simplified in respect of a number of persons who have special legal status. To make a decision to initiate a criminal case against deputies of the State Duma of the Federal Assembly of the Russian Federation, members of the Federation Council of the Federal Assembly of the Russian Federation, judges of the Constitutional Court of the Russian Federation, judges of the Supreme Court of the Russian Federation, judges of the High Arbitration Court of the Russian Federation, judges of the courts of the subjects of the Russian Federation, it is no longer required to obtain the conclusions of a Panel, consisting of three judges of the Supreme Court about the presence of the necessary signs of a crime. The authorities indicate that following the amendments, it is enough to obtain consent of the State Duma of the Federal Assembly of the Russian Federation, the Federation Council of the Federal Assembly of the Russian Federation, the Constitutional Court of the Russian Federation, the High Qualification Panel of judges of the Russian Federation regarding the respective categories of officials.

68. The authorities add that the Supreme Court of the Russian Federation has put together a compendium (June 2010) on the practice of the application of provisions of chapter 52 CPC concerning "Particularities of Proceedings in Criminal Cases against Certain Categories of Persons", which discusses procedural problems encountered in a large number of practical cases. Based on this analysis the Investigation Committee under the Prosecutor General's Office of the Russian Federation has adopted methodical "Guidelines on Carrying Out Criminal Prosecution as to Specific Categories of Persons subject to Criminal Proceedings". (Both these documents have been submitted to GRECO.)
69. GRECO takes note of the information provided which indicates that the procedure for lifting immunity as described in the Evaluation report (paragraphs 177 - 179) has been simplified in respect of a number of officials. Moreover, the information submitted also indicates that the Investigation Committees now have guidelines at their disposal based on the analysis provided by the Supreme Court of the Russian Federation. The GET, welcomes the achievements made and is of the opinion that – although further measures in this area might be desirable, in particular in the context of measures foreseen in relation to recommendation xi – the authorities have complied with the requirements of the current recommendation.
70. GRECO concludes that recommendation xii has been implemented satisfactorily.

Recommendation xiii.

71. *GRECO recommended to establish specific and objective criteria to be applied by Parliament, the Constitutional Court or a qualification board of judges when deciding on requests for the lifting of immunities and to ensure that decisions concerning immunity are free from political considerations and are based only on the merits of the request submitted.*
72. The authorities of the Russian Federation report that the High Qualification Panel of Judges as well as the Constitutional Court, the Supreme Court and the High Arbitration Court have prepared guidelines, defining the criteria by which the qualification panels of judges and courts must be governed when they take decisions on the applications for initiation of criminal cases against judges. (The texts have been submitted to GRECO.) As far as members of Parliament are concerned, the authorities refer to article 98 of the Constitution, articles 19 and 20 of the Federal

Law “on the Status of the member of the Federation Council of the Federal Assembly of the Russian Federation and the deputy of the State Duma of the Federal Assembly of the Russian Federation” (#3-FZ). Moreover, they submit that a decision of the Constitutional Court of 19 May 2009 describing the legal nature etc of parliamentary immunity: *“the immunity cannot be regarded as the personal privilege of the deputy exempting him from liability for criminal and administrative offenses...the parliamentary immunity involves adequate protection of the deputy in the exercise by him of proper parliamentary activities (implementation of the parliamentary rights, performance of parliamentary duties) that leads to the generally accepted rule in legal state, pursuant to which the deputy is not responsible for the actions of the mandate, including after the expiration of the terms of his powers. At all events, the deputy cannot be held criminally or administratively liable for opinions expressed, speech in Parliament or a position expressed when voting, development and submission of the action documents, necessary contacts with state authorities and officials thereof, as well as other actions arising from the deputy’s status. At the same time, by virtue of a general legal principle of non-abuse of the right of immunity it cannot justify exemption for publicly insulting, calumny and other incompatible with the mission of the institution and the deputy’s status offenses under federal law”*

73. GRECO takes note of the information provided, which indicates that guidelines have been established, containing objective criteria to be taken into account in relation to the lifting of judges’ immunity. GRECO also notes that the decision of the Constitutional Court concerning parliamentary immunity describes the content and fundamental basis of such immunity. However, the current recommendation calls for criteria to be applied by Parliament when deciding on requests for the lifting of immunity to ensure that such decisions are free from political considerations and are based only on the merits of these requests. Such criteria are not included in the decision of the Constitutional Court. They yet need to be established, preferably by Parliament itself.

74. GRECO concludes that recommendation xiii has been partly implemented.

Recommendation xiv.

75. *GRECO recommended that Article 104.1-3 of the Criminal Code be amended in order to provide for confiscation of the proceeds from corruption in respect of all corruption offences of the Criminal Code as well as other offences which may be connected with corruption and to provide for efficient seizure in such cases and that the introduction of in rem confiscation under the criminal legislation be considered.*

76. The authorities of the Russian Federation report that draft legislation is under preparation within the Ministry of Justice aimed at amending article 104 and related articles of the Criminal Code (CC) in line with international requirements for confiscation and seizure, in particular, to widen considerably the scope of criminal offences in relation to which confiscation and seizure can be applied. The authorities have added that a draft law (Article 174 CC), widening the scope of criminal offences in relation to which confiscation and seizure can be applied is pending before the State Duma since 1 July 2010. Concerning the second part of the recommendation (to consider the introduction of *in rem* confiscation), the authorities submit that on 1 June 2010, the State Duma of the Federal Assembly of the Russian Federation held a “round table”, at which the possibility of introducing the notion of confiscation *in rem* in the criminal legislation was discussed. Some 10 MPs representing the pertinent parliamentary committees, representatives of the Presidential Administration, the Government, the Constitutional Court, the Supreme Court, the Prosecutor General’s Office, law enforcement bodies, scholars, civil society (including

Transparency International) . The conclusion of the discussion was that “*in rem*” confiscation should be considered as a possible option for the future.

77. GRECO takes note of the situation explained by the authorities according to which draft legislation to amend article 104 CC is underway; however, no final draft legislation appears to be available as yet. GRECO wishes to stress that the Evaluation report (paragraph 217) contains a list of shortcomings that the authorities need to take into consideration in this work. Furthermore, it appears that *in rem* confiscation could possibly be introduced in the criminal legislation; however, no concrete initiatives to this end have yet been taken at Government level, following the round table discussion within the State Duma, in which a number of stakeholders participated. This part of the recommendation has therefore been partly implemented.
78. GRECO concludes that recommendation xiv has been partly implemented.

Recommendation xv.

79. *GRECO recommended to design training courses and guidelines for those who apply confiscation and interim measures in cases of corruption, and to assess the efficiency of the confiscation regime based on the collection – on an on-going basis – of appropriate and detailed information and statistics.*
80. The authorities of the Russian Federation report that the Academy of the Prosecutor General's Office (including its branches in Saint Petersburg and Irkutsk Law Institutes and also the Law Institute of the Academy of the Prosecutor General's Office and the Institute for training and professional upgrading of high-ranking prosecutors), the Ministry of the Interior, the Federal Service for Control over Drugs, the Federal Security Service and the Russian Customs Academy have all developed general and specific training programmes/courses for their respective staff at various levels focusing on the application of measures such as confiscation and seizure. All these training programmes are operational since 2009 (investigators) and 2010 (prosecutors). Moreover, the authorities state that the Scientific Research Institute under the Academy of the Prosecutor General's Office of the Russian Federation has in 2009 prepared methodical recommendations concerning the application of confiscation as a criminal law measure. The authorities also report that various entities, such as the Academy of Administration of the Ministry of the Interior, the Academy of the Federal Security Service and the North-Western Institute for Improvement of Qualification of the Federal Service for Control over Drugs of Russia, have included issues concerning confiscation of property in the course of corruption crimes in their future studies.
81. The authorities furthermore submit that, on 24 December 2009, the Expert Group against Corruption under the Interdepartmental Working Group for Counteracting Economic Crimes met with representatives of law enforcement agencies to discuss possible adjustments of departmental statistics, including how to report statistics to allow for evaluation of the efficiency of the use of confiscation in relation to corruption offences. The authorities submit that the Ministry of the Interior, which register crime at the pre-trial stage, report statistics on freezing of property and confiscation; the Court Department under the Supreme Court, which registers persons convicted also registers confiscations applied and has issued an order (20 May 2009, Order #97) to the courts of first instance concerning their reporting of criminal offences and measures applied, such as confiscation. Finally, a new form of departmental report of the Federal Service of Court Bailiffs has been established by the Ministry of Justice (1 February 2010, #27) to reflect data about the number of executions conducted for the confiscation of property.

82. GRECO takes note of the information provided and concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

83. *GRECO recommended to ensure that public administration reforms to fight corruption are applicable to a wide range of public employees/officials – and not only to the narrow category of civil servants.*
84. The authorities of the Russian Federation refer to the adoption of the Laws on Combating Corruption (#273-FZ) and on Making Amendments to Separate Legal Acts of the Russian Federation in the light of adoption of the Law on Combating Corruption (#274-FZ) and other legislation adopted in the process of the ratification of the UN Convention against Corruption (UNCAC) as well as the Council of Europe Criminal Law Convention on Corruption (ETS 173). These laws have contributed to the spread of the application of various measures to prevent corruption and to establish liability for crimes of corruption for a wide range of state and municipal employees, including those who are not attributed to the category of civil servant. The legal acts, regulating the order of conduct of different types of services unified the provisions concerning the establishment of relevant rules and limitations for all categories of employees in public administration (state civil servants, municipal employees, law enforcement employees, judges, the military, employees of the Bank of Russia etc).
85. GRECO takes note of the information provided, which makes it clear that broad reform is underway in Russia which goes much beyond the civil service, also covering law enforcement agents, judges and the military. However, the current recommendation was adopted within the framework evaluating the public administration in a more narrow context, as distinct from the law enforcement, the judiciary or the military. GRECO recalls that according to the Evaluation report a precise definition of the concept of civil servant was missing in Russia; however, it was made clear that not all public employees are civil servants. The current recommendation was issued in order to ensure that the administrative reforms – often pronounced as civil service reforms – apply as widely as possible so as make sure that public employees – often at lower ranks with no mandate to take decisions, such as secretaries, assistants etc are also covered by the administrative reforms implemented in the public administration/civil service. The Russian authorities have added, at the time of the adoption of the current report, that there is a declared intention to also cover the aforementioned categories of staff in the context of the ongoing reforms.
86. GRECO concludes that recommendation xvi has been partly implemented.

Recommendation xvii.

87. *GRECO recommended that comprehensive and precise legislation on the access to public information is adopted as a matter of priority and that adequate measures for the implementation of such legislation throughout the public administration, including proper supervision of the implementation, be provided following the adoption.*
88. The authorities of the Russian Federation report that the “Federal Law On Providing Access to Information on the Activities of State Bodies and Bodies of Local Self-Government”, dated 9 February 2009 (#8-FZ), entered into force on 1 January 2010. Moreover, to ensure transparency of the judicial power, the “Federal Law on Providing Access to Information on the

Activities of Courts, dated 22 December 2008, entered into force on 1 July 2010. According to the Russian authorities, these laws, which establish the requirements of access to information, are built on the main principles of: transparency and availability of information, except for the cases envisaged by the Federal Law, where information is secret for various reasons. To execute the requirements of the new legislation, the state bodies, local self-government bodies and courts are to define the appropriate structural divisions or authorised officials and establish their rights and obligations by mandates and/or other acts, regulating the activities of the above mentioned bodies in order to organise access to information about their activities. The laws provide for possibilities to appeal against decisions not to provide access to information, within the hierarchy of the administration and, ultimately, to a court of law. The authorities furthermore submit that several authorities have, currently, started to draw up internal regulations for the application of the law and also to provide training to staff concerned. However, this is not the case in all institutions. Finally, the authorities have developed a number of IT tools, such as web pages of various public authorities and departments, including the judiciary, in order to provide for easy access to public information.

89. GRECO welcomes the progress reported. The adoption of federal legislation on access to information held by public authorities, following several attempts to this end over more than a decade, must be considered as an important achievement in the Russian Federation. Having said that, GRECO wishes to stress that it has not carried out an in-depth assessment of the new legislation within the framework of the current compliance procedure and that it therefore is not in a position to form a legal opinion on its content. GRECO cannot disregard the crucial importance of making this new fundamental legislation work in practice. The adoption of the legislation would need to be followed by a phase of implementation, which is likely to call for massive training of staff throughout the public administration at all levels, and would benefit from a coordinated plan of action on a broad scale to provide for uniform implementation and application of the law throughout the Russian Federation. It appears that the authorities have started to implement such measures on a broad scale. GRECO takes the view that a variety of them could possibly be included in Russia's extensive anti-corruption reforms, or in the National Anti-corruption Plan (NACP), as a long term measure.

90. GRECO concludes that recommendation xvii has been partly implemented.

Recommendation xviii.

91. *GRECO recommended to pursue efforts to improve procedures of administrative and judicial appeals against acts and decisions of public administration and to consider, as a long term objective, the establishment of a specialised administrative court system.*

92. The authorities of the Russian Federation claim that this recommendation has been realised to a large extent for the following reasons. The Federal Code of Administrative Offences envisages the possibility of appeal against decisions of the administrative bodies. The Federal Arbitration Proceedings Code and the Federal Civil Proceedings Code establish the procedures of appeal of administrative decisions, concerning the rights of individuals and legal entities. The absence of special laws on administrative courts and administrative procedures does not, according to the authorities, impede the protection of infringed rights of individuals and legal entities in courts of general jurisdiction or arbitration courts as this protection is conducted in compliance with all principles of administrative justice, including those which provide for the right of individuals to appeal the judicial act in the superior (higher) court instances. In view of this, the Supreme Court of the Russian Federation has initiated organisational changes and reforms in the system of

courts of general jurisdiction, which aim at improving the procedures of court appeal of actions and decisions of the bodies of state administration. For example, 10 February 2009 (#2) the Plenum of the Supreme Court adopted a Resolution on the practice of examination by courts of cases of appeal against decisions, actions (inaction, omission to act) of the bodies of state power, bodies of local self-government, officials, state and municipal employees. This Resolution deals with both judicial and administrative appeals against acts and decisions of administrative authorities, *inter alia*, which acts that can be subject to appeal, and other relevant procedural aspects concerning the manner in which such cases are to be dealt with. Half of the appeals dealt with by the Supreme Court in 2010 concern administrative acts or decisions. The authorities furthermore state that the realisation of procedures of administrative and court appeal of actions and decisions of state bodies are not limited only to court appeal; most federal bodies of state power have adopted administrative mechanisms which envisage pre-trial (administrative) examinations of complaints, for example within the tax administration, which reportedly are expeditious and cost effective. Finally, a round table on the role and place of administrative justice was organised by the State Duma in December 2009 and that a draft law on federal administrative justice is under consideration within the State Duma.

93. GRECO recalls the situation concerning administrative complaints as it was described in the Evaluation report: *“Article 46 of the Constitution provides that everyone must be guaranteed protection of his or her rights and liberties in a court of law and that decisions and actions (or inaction) of state organs, organs of self-government, public associations and officials can be appealed in a court of law”* (paragraph 246). *“The legislation of the Russian Federation also provides for the possibility to appeal administrative decisions in court and it is possible to make administrative appeals against certain decisions of certain authorities, for example, in respect of the federal Bailiff’s office and criminal justice authorities, according to the Criminal Procedure Code. However, there is no general administrative appeal procedure in place against administrative decisions. The GET was informed that draft legislation on uniform administrative procedures, on the creation of administrative courts and judicial administrative procedures was under consideration by the State Duma. The information gathered by the GET during the visit suggested that the prospects for adoption of such legislation are not very clear”* (paragraph 247).
94. GRECO takes note of the information submitted by the authorities, which does not indicate any major change to the situation as assessed in the Evaluation report. There is still no general administrative appeal procedure legislation in place and administrative appeals are still being dealt with by the ordinary courts: a system that was considered insufficient according to the Evaluation report (paragraph 286). The new elements reported – a resolution by the Supreme Court and some initiatives by the State Duma – confirms an awareness of the need for reform in this area. Although no substantial legal reforms in the area of administrative justice have been considered, the measures taken represent some progress.
95. GRECO concludes that recommendation xviii has been partly implemented.

Recommendation xix.

96. *GRECO recommended that the authorities take determined measures to ensure that recruitment to the civil service in practice is based on the principles contained in pertinent legislation (e.g. announcement of vacant posts, fair competition between candidates and avoidance of conflicting interests) and that these principles be applied, as appropriate, also in respect of other types of employment in the public administration.*

97. The authorities of the Russian Federation report that with the adoption of the Federal Law on Combating against Corruption (25 December 2008, #273-FZ), the notion of “conflict of interests at civil and municipal service” was introduced (article 10). This notion refers to situations where the personal interest (direct or indirect) of a state or municipal employee influences or may influence the execution of official duties which may entail damage to the rights and lawful interests of the citizens, organisations and public bodies. The law (article 11) establishes the order of prevention and settlement of such conflicts of interest in state and municipal services. With reference to this legislation, in conjunction with the requirements for announcing vacant posts publicly and the rules on competitive recruitment to the state service, as provided for by the Federal Law on State Civil Service (2004, #79-FZ) and the Order of the President of the Russian Federation on Competition to a Vacant Position of State Civil Service (2005, #112) as well as the Federal Law on Municipal Service (2007, #25-FZ), the authorities stress that there are instruments in place to implement the latter legislation in practice. To ensure that recruitment to the state service and the municipal service is carried out according to the law, the bodies of prosecution conduct checks on a regular basis. In 2009, the prosecutors revealed 263 715 violations of the laws on state and municipal service and on counteraction corruption (in 2008 - 208 284).
98. GRECO takes note of the information provided. As a starting point, GRECO recalls that the provisions concerning recruitment to the civil service as such were not challenged in the Evaluation report (paragraph 287), but rather their implementation in practice. GRECO notes in this respect that the Law on Combating Corruption provides for further regulations in respect of officials’ conduct during recruitment in order to prevent conflicts of interest. Apparently, a supervisory role in the implementation of these laws is performed by the Prosecution Service. The data on detected cases of violation of these laws illustrates the scale of the problems in the functioning of the system. On the one hand, GRECO takes the view that what has been reported by the authorities indicates the taking of general measures that may deal to some extent with the problem of recruitment and possibly other difficulties relating to the implementation of the legislation as intended. On the other hand, GRECO is far from convinced that yet more legislation with rules against conflicts of interest in combination with repressive measures as those described, are sufficient in order to develop a new culture within public administration as foreseen in the legislation. Other efforts, such as long term awareness raising and educational measures, preferably carried out within the public administration/civil service itself, would appear more appropriate in relation to the problems described.
99. GRECO concludes that recommendation xix has been partly implemented.

Recommendation xx.

100. *GRECO recommended to review the current measures designed to prevent conflicts of interest in order to clarify their scope of application in respect of public officials and their relatives, to remedy the shortcomings identified and to ensure that the necessary measures are fully implemented in practice.*
101. The authorities of the Russian Federation clarify that the provisions on prevention and settlement of conflicts of interest, established by the Laws on Combating Corruption and on State Civil Service, also cover situations of conflicting interests when public employees, while they are executing their official duties obtain advantages for themselves and for third persons, including relatives. Furthermore, the specialised subdivisions of the prosecution service for supervision of execution of laws on combating corruption conduct regular checks on their execution, regulating the issues of detection and prevention of the conflict of interests (as developed under

recommendation xix). The results of this supervision, are included in a Report to the Presidential Council on Counteracting Corruption.

102. The authorities furthermore submit that the State Legal Department of the President of the Russian Federation has prepared draft Presidential decrees “on the Commission for Observance of the Requirements and Standards to the Service Conduct of Federal Civil Servants and Management of the Conflict of Interests” and “on Measures for Realisation of Separate Provisions of the Law on Combating Corruption”. The former draft Order, which was adopted as a Presidential Decree on 1 July 2010, envisages that observance of the conduct of persons holding positions in the Federal state civil service and the settlement of such conflicts of interest, are to be examined by special commissions. The latter draft Order specifies the application of article 12 of the Law on Combating Corruption and foresees, in particular, that officials holding specific positions of Federal state service, within 2 years of their dismissal have the right to hold positions in the private sector (of a certain category) only upon the consent of the relevant commission. The implementation of the Presidential decree was considered by the Presidential Council on Counteracting Corruption and it has been decided to give the Ministry of Health and Social Development the responsibility for a quarterly monitoring of the work of the commissions as well as various authorities at district and local levels, while the Department of the President of the Russian Federation is to assess and analyse the results.
103. The authorities also state that it is also planned to establish human resources services in federal state bodies, in order to prepare the activities of the planned commissions. Provisions on the division of the HR department for prevention of corruption and other offences of a federal state body were adopted by the Deputy Chairman of the Government of the Russian Federation and the Director of the Administration of the Government on 18 February 2010 (#647p-P16).
104. GRECO takes note of the information provided in respect of recommendation xx as well as relevant parts of the measures reported under recommendation xix. It follows that the Russian authorities are preparing a number of measures in order to strengthen the implementation of the regulations in place to prevent and detect situations of conflicts of interest. The establishment of special commissions with supervisory functions appears to be particularly interesting as a proactive complement to the static provisions in place. However, these reforms are not yet fully implemented in practice and their possible impact in practice can obviously not be assessed at this stage.
105. GRECO concludes that recommendation xx has been partly implemented.

Recommendation xxi.

106. *GRECO recommended to eliminate the practice of accepting substantial gifts of any form in the public administration and to consider abolishing the legal justification for such gifts as contained in Article 575 of the Civil Code.*
107. The authorities of the Russian Federation report that on 28 May 2010, the Ministry of Health and Social Development of the Russian Federation submitted a draft Federal Law on Making Amendments to Separate Legal Acts to the Government, envisaging amendments to article 575 of the Civil Code (prohibition of gifts over a certain value) and to a large number of other laws with corresponding provisions. The draft text establishes that it would be prohibited to provide gifts to persons who hold federal state positions, state positions in the subjects of the Russian Federation; municipal positions, state employees and civil servants, municipal employees and

employees of the Bank of Russia. Moreover, according to the draft law, gifts which are received for “protocol reasons” are considered to be public property. The authorities also submit that the ban on receipt of gifts is to be reflected in various codes of ethics.

108. GRECO welcomes the intentions reported to legislate against the long standing practice in Russia of offering and receiving gifts in certain situations in a variety of different fields of the public sector. If such legislation were to be adopted, GRECO considers it necessary to follow this up with intensive awareness campaigns for the larger public as making and receiving gifts appears to be deep-rooted in Russian society. Having said that, relevant draft legislation is currently under consideration with the Government.

109. GRECO concludes that recommendation xxi has been partly implemented.

Recommendation xxii.

110. *GRECO recommended to introduce clear rules/guidelines requiring public employees/officials to report suspicions of corruption, to introduce specific protection of those who report suspicions of corruption in public administration in good faith (“whistleblowers”) from adverse consequences and to provide systematic training to all staff concerned.*

111. The authorities of the Russian Federation report that the duty of state and municipal employees to inform the representative of the employer, the bodies of prosecution or other state bodies about all cases of approaches to them by any persons in order to influence them to commit corruption offences is established by article 9 of the Law on Combating Corruption (2008, #273-FZ). This is a duty of the public employee and failure to comply with it constitutes an offence which leads to disciplinary and/or criminal sanctions. The authorities submit that, currently, the overall majority of federal bodies of state power, such as federal ministries, the Prosecutor General’s Office and a number of law enforcement agencies have adopted and issued their own detailed regulations in this respect, while other agencies are in the process of doing so. The process is under the control of the Prosecutor General’s Office. The authorities also submit that the Ministry of Health and Social Development in cooperation with the Ministry of Finance, the Ministry of Economic Development, the Ministry of Regions of Russia and the Ministry of Justice, has elaborated “methodical recommendations” on the order of notification of the representative of the employer about the facts to be addressed when a state or municipal official has been influenced to commit corruption offences, in accordance with part 5 of article 9 of the Law on Combating Corruption.

112. The authorities furthermore indicate that according to part 4 of article 9 of the Law on Combating Corruption, a state (civil servant) or municipal employee, who notifies the representative of the employer, is to be under the protection of the state according to the laws of the Russian Federation. In addition to this, the Prosecutor General’s Office has prepared a draft Federal Law on Making Amendments to separate and specific legal acts in order to protect persons who voluntarily report suspicions of corruption in the sphere of state administration. Amendments to this end are to be made to the Federal Labour Code and to the Federal Law on State Protection of Victims, Witnesses and other Participants of Criminal Proceedings (2004, #119-FZ). Moreover, the draft law envisages guarantees of protection for commercial and other organisations from ungrounded prosecution for reporting facts relating to corruption.

113. The Russian authorities report that a large number of training activities on combating corruption have taken place and that it is planned to include the issues of reporting corruption (part 5 of

article 9 of the Law on Combating Corruption) in this training as from 2010. The following institutions are to provide such training: the Ministry of the Interior and its Academy of Administration, the Federal Security Service and the Federal Service of Control over Drugs for law enforcement personnel, the Institute of advanced training for top personnel at the Academy of the Prosecutor's Office for staff at the prosecution offices and investigation committees. Moreover, professors and lecturers of the Academy of the Prosecutor General's Office systematically participate in different events for advanced training of employees of the central administration of the Prosecutor's Office and prosecutors' offices of the subjects of the Russian Federation as well as investigation divisions of the Investigation Committee under the Prosecutor General's Office. The Institute of advanced training of the Academy of Prosecutor Generals' Office has elaborated and published the training programme "Prosecutor's supervision over execution of laws on combating corruption" and a book of methodical materials is being prepared (available by the 3rd quarter of 2010) etc. The authorities finally submit that on 29 June 2009 the Order of the President of the Russian Federation on the organisation of advanced training of federal state employees (civil servants) - whose official duties include the combat against corruption – was adopted (No. 435-rp). According to the Order, the Federal State Educational Institution of Higher Professional Training ("Russian Academy of State Civil Service") is to be the executor of the order. By the end of 2010, advanced training for some 500 federal state employees (civil servants) will have taken place. Furthermore, it is planned that this training will take place on a regular basis.

114. GRECO takes note of the information provided. Concerning the first part of the recommendation, relating to the reporting of suspicions of corruption, it appears that such a requirement is limited to situations where the public official himself/herself has been subject to an offer or the like that may amount to corruption. The authorities have not indicated any general rules/guidelines for reporting all forms of corruption a public official comes across. GRECO therefore encourages the Russian authorities to broaden the scope of what should be reported. Turning to the second part of the recommendation, protection of those who report situations of corruption ("whistleblowers"), GRECO is pleased to note that general rules to this end appear in the Law on Combating Corruption and that further regulations are to be included in other pertinent laws, such as the Labour Code. Thirdly, GRECO notes that the authorities are in the process of developing the details of the training of public officials following the adoption of the Law on Combating Corruption. It seems that until now, the focus has been to train the staff of the various law enforcement agencies. Considering the vast number of civil servants/public employees in the Russian Federation, GRECO considers it of utmost importance that massive prevention orientated training be established for these categories of staff. In this respect, GRECO notes that broader training of civil servants and public employees appears to be at the planning stage and that a rather limited number of public officials are concerned (some 500 staff). GRECO is pleased that the authorities intend to give further weight to such training on a regular basis.

115. GRECO concludes that recommendation xxii has been partly implemented.

Recommendation xxiii.

116. *GRECO recommended to elaborate and promulgate a model code of conduct/ethics for public employees/officials, including civil servants, which can be adjusted in light of the particular needs pertaining to different sections of public administration, and to ensure its implementation in practice, including offering adequate training to all staff concerned.*

117. The authorities of the Russian Federation report that, on 16 July 2009, the President of the Russian Federation signed an updated edition of the Order “on Adoption of General Principles of Service Conduct of State Employees” (2002, #885) in which the general principles of service conduct of state employees (civil servants) are contained. These principles are binding. Furthermore, the authorities submit that the Ministry of Health and Social Development has developed a Model Code of Ethics and Conduct for Public Employees (Civil Servants), which has been drafted on the basis of the provisions of the United Nations International Code of Conduct for Public Officials, General Assembly Resolution 51/59 of 1997 and the Council of Europe Recommendation No. R (2000) 10 of the Committee of Ministers to member States on codes of conduct for public officials. The draft model code has been submitted for consideration and approval to the Presidium of the Presidential Council on Counteracting Corruption, after which it will be forwarded to the state bodies as a model for their own codes of ethics (conduct). The text of the Draft model code has been submitted to GRECO. The authorities also refer to codes of conduct which are already in force in particular parts of the public sector.
118. GRECO takes note of the information provided that the 2002 Presidential Order on General Principles of Service Conduct of State Employees have been updated in 2009 and that the drafting of a model code of ethics based on international standards is in its final stages. GRECO welcomes this process, which clearly will need to be followed up with an implementation phase, once the model code is adopted.
119. GRECO concludes that recommendation xxiii has been partly implemented.

Recommendation xxiv.

120. *GRECO recommended to adopt the necessary legislative measures in order to establish liability of legal persons for corruption offences and to provide effective, proportionate and dissuasive sanctions in these cases, including monetary sanctions, in compliance with the requirements of the Criminal Law Convention on Corruption (ETS 173).*
121. The authorities of the Russian Federation report that in the light of the ratifications of the United Nations Convention against Corruption (UNCAC) and the Council of Europe Criminal Law Convention on Corruption (ETS 173) as well as the adoption of the Law on Combating Corruption (2008, #273-FZ), the Russian Federation has adopted the Federal Law on Making amendments to specific separate legislative acts of the Russian Federation which, *inter alia*, has amended the Code of Administrative Offences (CAO) of the Russian Federation. As a result, article 19.28 on “Illegal Remuneration on behalf of a legal entity”, was introduced to this Code to establish administrative liability, *inter alia*, for corruption offences, and illegal transfer of money, securities or other property. Furthermore, article 19.28 CAO establishes sanctions in the form of administrative fines of up to three times the amount transferred, three times the value of the securities, other property and services of property nature rendered, but not less than one million roubles (EUR 24,000) in addition to confiscation of the transferred money, securities and other property. The authorities have added that there are cases in Russia where a natural person (eg a manager of a corporation) has been convicted for giving a bribe according to Article 291 CC and the corporation has been convicted for the illegal reward (gratification), according to Article 19.28 CAO for the same action.
122. GRECO recalls the wording of Article 18 of the Criminal Law Convention on Corruption which stipulates that “*legal persons can be held liable for the criminal offences of active bribery, trading in influence and money laundering established in accordance with this Convention...*”. The

criminal offences of corruption are contained in the Russian Criminal Code (CC) and according to Article 19 CC only physical persons can be subject to liability under the Criminal Code. GRECO is well aware that the Criminal Law Convention does not impose an obligation to establish criminal liability; however, the Convention obliges states to establish some form of liability for criminal offences of corruption. In Russia there are both administrative offences of corruption under the CAO and criminal offences of corruption under the CC. GRECO acknowledges that there is administrative liability for legal persons in respect of illegalities under the CAO; however, what has been indicated by the Russian authorities does not link this liability to the particular corruption offences provided for under the Criminal Code. Another problem is that administrative liability for administrative offences, as established under Article 19.28 CAO, may well be applicable in situations where a criminal corruption offence is also applicable. However, these are two different offences (even if they concern the same action) and the elements of the administrative corruption offence are not the same as the elements of the criminal law corruption offences; for example, an offer of a bribe, which is to be criminalised as bribery according to the Convention, would not be covered by Article 19.28 CAO, as the latter provision is limited to situations of “illegal transfer of money, securities and functions” and does not cover an offer. To conclude, it follows that the amendment made to the Code of Administrative Offences, namely the introduction of an administrative offence in respect of legal persons in Article 19.28 CAO does not comply with the requirements of Article 18 of the Criminal Law Convention which requires some form of liability for legal persons in respect of active bribery, trading in influence and money laundering established in accordance with the Convention.

123. GRECO concludes that recommendation xxiv has not been implemented.

Recommendation xxv.

124. *GRECO recommended to provide special training and/or establish suitable guidelines for the tax authorities concerning the detection of corruption offences and their reporting obligation under the law.*

125. The authorities of the Russian Federation report that, on 31 December 2009, the Director of the Federal Tax Service adopted guidelines for the detection of corruption related crimes committed within the tax authorities (Order #MM-7-4/737@). The Guidelines contain measures to be taken against perpetrators with references to pertinent legislation. They also contain preventive measures in respect of offences etc. Moreover, on 19 January 2010, the Director of the Federal Tax Service adopted a programme to fight corruption in tax bodies (Order #MM-7-4/12@) to implement measures of anti-corruption policy, for example, prevention of conflicts of interest and to notify the law enforcement agencies about the signs of corruption in tax bodies. The authorities furthermore report that advanced training of civil servants of the Federal Tax Service is conducted according to educational programmes within the framework of the state order for professional training and re-training of federal state civil servants within the 2010 Federal budget, and that additional professional anti-corruption training of civil servants is planned for 2010 in the educational institutions under the Federal Tax Service.

126. GRECO takes note of the information provided and welcomes the progress reported, which is in line with the requirements of the recommendation. The authorities are encouraged to organise professional training of tax officials on a regular basis.

127. GRECO concludes that recommendation xxv has been implemented satisfactorily.

Recommendation xxvi.

128. *GRECO recommended to encourage auditors and other advisory and legal professions to report suspicions of corruption to the appropriate authorities.*
129. The authorities report that the Prosecutor General's Office of the Russian Federation has adopted measures to activate cooperation with professional associations of auditors, lawyers and notaries in the field of combating corruption, in particular, concerning the provision of information to the competent law enforcement agencies about details of corruption offences they come across in carrying out their duties. Following a meeting (19 November 2009) between representatives of the Prosecutor General's Office and Notary Chambers of the subjects of the Russian Federation, the Prosecutor General has adopted a Resolution containing provisions which oblige the notaries public to inform competent state bodies about corrupt acts they observe. Furthermore, the Audit Chamber of Russia has elaborated guidelines concerning reporting of money laundering and financing of terrorism for the training auditors. On 30 November 2009, the Council of the Audit Chamber of Russia adopted a decision to include provisions, which obligate the auditors to inform law enforcement agencies on details of corruption offences. Moreover, upon the initiative of the Prosecutor General's Office, the Ministry of Finance of the Russian Federation sent an information letter to self-governed organisations of auditors (24 March 2010) on the possibility of awarding auditors if they inform the competent authorities about suspicions of corruption and on the organisation of pertinent training for private sector auditors. The authorities furthermore submit that the Federal Chamber of Lawyers (Barristers) has expressed its readiness to participate in the realisation of such activities.
130. GRECO takes note of the information provided, which for natural reasons is more substantial in respect of measures taken or underway within the public sector. The measures reported in respect of the auditors or legal professions of the private sector are more vague, however, the recommendation does not require more than to "encourage" representatives of these "free" professions.
131. GRECO concludes that recommendation xxvi has been dealt with in a satisfactory manner.

III. CONCLUSIONS

132. **In view of the above, GRECO concludes that the Russian Federation has implemented satisfactorily or dealt with in a satisfactory manner just over a third of the 26 recommendations contained in the Joint First and Second Round Evaluation Report.** Recommendations i, ii, vi, x, xii, xv and xxv have been implemented satisfactorily and recommendations viii and xxvi have been dealt with in a satisfactory manner. Recommendations iii, v, vii, ix, xi, xiii, xiv, xvi, xvii, xviii and xix-xxiii have been partly implemented. Recommendations iv and xxiv have not been implemented.
133. The Russian Federation received a vast number of recommendations in the Joint First and Second Evaluation Round. Some of the recommendations require fundamental measures, including the creation of a clear basis for the National anti-corruption policy, far-going legislative reforms and organisational changes in public administration, law enforcement, the judiciary as well as in relation to civil society. It goes without saying that this is an immense task to accomplish in only 18 months. GRECO is therefore pleased that the Russian authorities have addressed a large majority of the recommendations even if only just over a third of them could be considered as implemented in full. The adoption of a National Anti-Corruption Strategy and the

accompanying National Anti-Corruption Plan 2010/2011 for the implementation of the strategy are obviously an important achievement and so is the adoption of general legislation on access to documents and information in various fields of public administration. Having said that, it cannot be disregarded that a large majority of the recommendations need further attention by the authorities and areas such as criminal immunity of public officials and the independence of the judiciary appear particularly critical matters in this respect. GRECO notes that several recommendations require legislative reforms which have been instigated but are not yet completed and that many recommendations are about implementing legal norms, rather than adopting new legislation or rules. Moreover, GRECO notes that the prosecutorial authorities play a crucial role within the whole reform process, not only in respect of their leading position in relation to typical tasks of the law enforcement agencies, but also as a supervisory and controlling mechanism in respect of the civil service. GRECO also notes that most of the training referred to is aimed at the staff of the law enforcement authorities, most notably the prosecution authorities and the representatives of the law enforcement agencies. Such an approach conveys the message that a rather strong repressive approach to the fight against corruption prevails in Russia. GRECO wishes to stress that more emphasis needs to be placed on preventive measures outside the criminal justice sector, such as training of employees of the civil service. The adoption of the legislation concerning access to official documents, for example, would require guidelines and massive training of public employees in all fields of public administration, at central, regional and local levels in order to be effective in practice. Furthermore, existing monitoring mechanisms relating to the fight against corruption, in particular concerning the assessment of the impact of anti-corruption measures introduced in various sectors, would benefit from being complemented with more input from civil society representatives, such as international non-governmental organisations with an anti-corruption agenda.

134. GRECO invites the Head of the delegation of the Russian Federation to submit additional information regarding the implementation of recommendations by 30 June 2012.
135. Finally, GRECO invites the authorities of the Russian Federation 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.