



Strasbourg, 30 April 2008

Greco (2008) 8E

37th Plenary Meeting of GRECO
(Strasbourg, 31 March – 4 April 2008)

SUMMARY REPORT

I. Opening of the Plenary Meeting

1. The 37th Plenary Meeting of GRECO was chaired by Mr Drago KOS (President, Slovenia) and, during part of 2 April, by Mr Marin MRČELA (Vice-President, Croatia). The list of participants appears in Appendix I to this report.
2. The President opened the meeting by welcoming all representatives, referring in particular to those who had been newly nominated.

II. Adoption of the agenda

3. The agenda was adopted as it appears in Appendix II to this report.

III. Information provided by the President, the Vice-President, Delegations and the Executive Secretary

4. The **President** reported that since the last plenary meeting he had made a presentation to a conference on the topic of "Culture of Cooperation" between national and European authorities in the fight against fraud and corruption (DBB Akademie, Cologne, 25 February). He had also made presentations to a group of students at the Hertie School of Governance on 26 February and to a conference on "Creating a national anti-corruption strategy" (Warsaw, 17 March). On Wednesday 2 April he would make a statement presenting GRECO's Seventh General Activity Report (2007) to the 1023rd meeting of the Ministers' Deputies of the Council of Europe. The text of his statement was made available to the plenary (Greco Inf (2008) 1E).
5. The **Vice-President** drew attention to the results of the Bureau 43 meeting which he had chaired (cf. Greco (2008) 6E). The invitation of the Federal Ministry of Justice of Germany to hold the meeting in Berlin had provided an opportunity to arrange for an exchange of views with representatives of Transparency International (TI) which had its headquarters in the city. Modalities of further future cooperation with TI, including the scheduling of an exchange of views with Ms Huguette LABELLE, Chair of the Board of Directors of TI, at a future GRECO Plenary Meeting had been explored. Furthermore, the Bureau had decided on the theme of a future *Tour de Table*: the Civil Law Convention on Corruption (ETS 174), during which delegations would be invited to provide information on legislative changes made pursuant to ratification of the treaty. The Bureau had also agreed to continue its discussion on possible actions to be taken to provide support to members to implement GRECO recommendations, bearing in mind the summary report to be prepared of the GRECO 36 *Tour de Table* on compliance issues.
6. The **President** informed the plenary that, following the agreement of the Bureau, he had sent a response (copies made available) to a letter from the Chairman of the OECD Working Group on Bribery requesting comments on a consultation paper on "Review of the OECD Instruments on Combating Bribery of Foreign Public Officials in International Business Transactions Ten Years after Adoption". He had underlined the common interest of both organisations in avoiding overlap; acknowledged the importance of the OECD instruments in the fight against international bribery and had highlighted areas regarding the bribery of foreign party officials, bribery of foreign private sector agents, the application of liability of legal persons to state-owned/controlled companies and mutual legal assistance, where a review of the OECD anti-bribery instruments and subsequent monitoring by the Working Group on Bribery might have the most added value for GRECO members. He had also signalled areas where GRECO's Third Round Evaluation Reports could provide useful input, i.e. solicitation of (foreign) public officials (and in this context, effective regret), bribery through intermediaries, bribes for the benefit of third parties, jurisdiction over bribery offences and statutes of limitation. Finally, he had stressed

that in the context of GRECO's monitoring, so-called soft law instruments (resolutions, recommendations) had turned out to provide as 'hard' a basis for addressing recommendations to GRECO members as the relevant conventions.

7. The possible format of the one-day high-level conference to celebrate GRECO's tenth anniversary, to be held during the week of GRECO's October 2009 plenary meeting would be further discussed at the next Bureau meeting (cf. Bureau 43 report – Greco (2008) 6E) . The Secretariat would prepare a preliminary outline, including proposals for the sub-topics to be examined and possible speakers to be invited, on which to base the discussions. The President stated that for such an occasion it would be appropriate to secure the participation of representatives at ministerial level to address the conference.
8. Finally, the President asked the Executive Secretary to forward the plenary's best wishes for a speedy recovery to Mr Björn Janson of the Secretariat.
9. The floor was handed to delegations. The **representative of France** informed the plenary of the adoption on 13 November 2007 of a new anti-corruption law bringing France in line with its commitments under the Criminal Law Convention on Corruption (ETS 173), its additional protocol (ETS 191), the Civil Law Convention on Corruption (ETS 174) – France was on the point of depositing its instruments of ratification on these texts – and the United Nations Convention against Corruption. This new law broadened the scope of provisions criminalising corruption of foreign officials and made some changes as regards the criminalisation of certain offences in national law. The (notion of) third party beneficiaries of corruption and trading in influence offences had been included in the law. Active and passive trading in influence as regards members of the national judiciary was now criminalised. Whistleblowers who report in good faith had been provided (under labour law) with protection against any form of disciplinary sanction. As regards foreign officials, the scope of the criminalisation of corruption offences had been broadened and distinctions as to whether offences were committed within or outside the European Union, within the context of international business transactions or not had been removed. Passive and active trading in influence as regards international officials and judges and officials of international courts had been criminalised. Moreover, the Criminal Procedure Code had been amended, giving sole jurisdiction to the Paris Regional Court (*Tribunal de Grande Instance de Paris*) over all cases of international trading in influence and corruption, and providing for certain special investigative techniques – the use of which was previously limited to organised crime cases – to also be used in cases of national or international trading in influence and corruption.
10. The President provided an up-date on the situation in **Slovenia**. Draft legislation providing for the abolishment of the Commission for the Prevention of Corruption had been approved by a very narrow margin at first reading; a revised draft would undergo a second reading at the end of April. It was expected that the Commission would continue its work at least until 1 January 2009.
11. As Head of **Croatia's** Delegation to GRECO, the Vice-President expressed his gratitude and that of the Croatian judiciary for the invaluable assistance received from colleagues in GRECO and the judicial authorities of GRECO member States in the context of a case transferred by the International Criminal Tribunal for the former Yugoslavia (ICTY) to Croatia, over which he was presiding. Practical and financial assistance and advice had permitted the tracing and hearing of a significant number of witnesses. In this context, he expressed special thanks to Norway (Judge Baumann and Mr Atle Roaldsoy), Iceland (Ms Ragna Arnadottir), Denmark (Alessandra Giraldi), Bosnia and Herzegovina (Vjekoslav Vuković) and Serbia (Judge Milan Dilparić and Ms Aleksandra Popović) and gratitude to the authorities of Sweden, Ireland and the United States of America for the additional legal assistance they had provided.

12. The **Executive Secretary** reported on the following developments since GRECO's 36th Plenary Meeting (February 2008):

- a summary record of GRECO's *Tour de Table* on Rules and Guidelines regarding revolving doors/*pantouflage* had been sent to all GRECO representatives (copies available); given the interest in this topic and the quality of the presentations made, the intention was to publish the file;

- copies of the draft, unedited text of the Resolutions and decisions adopted by the Second Session of the Conference of the States Parties to the United Nations Convention against Corruption (Indonesia, 28 January – 1 February 2008) were made available to participants;

- he had received authorisation to publish the Third Round Evaluation Report on the United Kingdom on Thursday 3 April; he expected soon to receive authorisation to publish the Third Round Evaluation Report on Slovenia - the representative of Slovenia informed the Plenary that delays had been due to a lack of funds for the translation of the report into Slovenian; authorisation had not yet been received to publish the Addendum to the First Round Compliance Report on Malta as well as the Second Round Compliance Report on Romania adopted in October and December 2007 respectively;

- the conclusion of an agreement with Belarus on the privileges and immunities of members of GRECO evaluation teams remained the only obstacle to effective participation of the country in GRECO following the entry into force in its respect of both the Criminal and the Civil Convention on Corruption (ETS 173 and 174);

- as in previous years and in accordance with internal procedures which meant that GRECO did not prepare autonomous budget proposals, the Executive Secretary had been asked by the Secretary General to submit to him draft proposals for the 2009 budget; following acceptance by the Secretary General GRECO would be asked (June 2008) to approve the proposals before their submission to the Council of Europe's Budget Committee and then to GRECO's Statutory Committee for adoption. In comparison with 2008, the current 2009 proposals entailed an increase in the order of 9%. The increase in the total budget was in large part due to GRECO's increased membership; moreover, the accession of Italy and the Russian Federation had added significant strength to the group and it appeared for the moment that the amounts of individual contributions by member States in 2009 compared with contributions made in 2006 would entail decreases for 16 members, increases of less than 1% for 21 members and higher increases for three members only as a direct consequence of increases in GDP which impacted on the rate of their Council of Europe contributions.

- he had participated in an international conference "Civil Law Consequences of Corruption" (Bremen, 14-15 March) organised by the University of Bremen and the European Anti-Fraud Office (OLAF), attended mainly by academics. Participants were enthusiastic about the potential for the use of civil remedies in fighting corruption; though the conference showed that there was little practical experience in this area, it had been a useful starting point for further debate and was particularly relevant as the Civil Law Convention on Corruption (ETS 174) continued to attract a sizeable number of ratifications each year. The Secretariat, Mr Georgi RUPCHEV (Head of Delegation, Bulgaria) and Mr Matthias KORTE (Head of Delegation, Germany) would participate in a conference organised by OLAF "Intensifying of Cooperation in Prosecution of Corruption and other Crimes (Celle, 26-28 May 2008) and the Executive Secretary would participate in a workshop

organised by the Geneva Centre for Security Policy (GCSP); the Geneva Centre for Democratic Control of Armed Forces (DCAF) and Transparency International UK, entitled "Building transparency and reducing corruption related to defence establishment" (Geneva, 5-7 May).

IV. Third Evaluation Round – Estonia and Iceland

13. In line with standing practice, an in-depth reading of the draft Third Round Evaluation Reports on Estonia and Iceland took place with the participation of the Evaluation Teams which had carried out on-site visits to the countries concerned. Before adoption, the reports underwent a second reading of drafts revised in the light of the discussions held during the first reading.
14. GRECO adopted the Third Round Evaluation Reports on Estonia (Greco Eval III Rep (2007) 5E – Themes I and II) and on Iceland (Greco Eval III Rep (2007) 7E – Themes I and II). The authorities of both countries were invited to authorise publication of the reports as soon as possible¹.

V. Joint First and Second Evaluation Rounds - Switzerland

15. An in-depth reading of the draft Joint First and Second Round Evaluation Report on Switzerland took place with the participation of the Evaluation Team which had carried out an on-site visit to the country. Before adoption, the report underwent a second reading of a draft revised in the light of the discussions held during the first reading.
16. GRECO adopted the Joint First and Second Round Evaluation Report on Switzerland (Greco Eval I-II Rep (2007) 1E). The authorities of Switzerland were invited to authorise publication of the report as soon as possible.

VI. First Round Compliance Procedure

17. The plenary noted with satisfaction the authorisation given to publish the Addenda to the First Round Compliance Reports on Bosnia and Herzegovina and on Moldova adopted at GRECO 34 (October 2007) and GRECO 36 (February 2008) respectively.

VII. Second Round Compliance Procedure – Cyprus and Hungary

18. The draft Second Round Compliance Reports on Cyprus and Hungary had been prepared, on the basis of Situation Reports submitted by the authorities of the countries concerned, in consultation with Rapporteurs designated on behalf of Georgia and Malta for Cyprus and on behalf of Greece and Turkey for Hungary. The Rapporteurs communicated their observations on the draft compliance reports to the plenary and a detailed reading of the reports followed.
19. GRECO adopted the Second Round Compliance Reports on Cyprus (Greco RC-II (2008) 1E) and Hungary (Greco RC-II (2008) 4E). The deadline fixed for the submission of additional information regarding the implementation of recommendations was 31 October 2009 in both cases.
20. GRECO noted with satisfaction that the authorities of Hungary authorised publication of the report and the authorities of Cyprus were invited to do likewise as soon as possible².

¹ The reports were subsequently published on 15 (Estonia) and 16 April 2008 (Iceland).

² The compliance report was subsequently published on 23 April 2008.

VIII. Joint First and Second Round Compliance Procedure - Turkey

21. The draft Joint First and Second Round Compliance Report on Turkey had been prepared, on the basis of a Situation Report submitted by the authorities of the country, in consultation with Rapporteurs designated on behalf of Germany and Montenegro. The Rapporteurs communicated their observations on the draft compliance report to the plenary and a detailed reading of the report followed.
22. GRECO adopted the Joint First and Second Round Compliance Report on Turkey (Greco RC I/II (2008) 2E) and invited the authorities of the country to authorise its publication as soon as possible. The deadline fixed for the submission of additional information regarding the implementation of recommendations was 31 October 2009.

IX. Exchange of Views

23. GRECO held an exchange of views with Mr Martin KREUTNER, Federal Bureau for Internal Affairs, Austria, who co-chaired (with Mr André VANDOREN, Standing Police Monitoring Committee, Belgium) the *European Partners against Corruption (EPAC)*. Mr Kreutner provided a brief history of EPAC which gathered representatives of European Union national Police Oversight Bodies and Anti-Corruption Agencies. Observer organisations from EU candidate, Western Balkan and Non-EU Schengen States were also associated with the work of EPAC. Further information was available at www.epac.at. Mr Kreutner provided an update on the situation as regards the planned establishment of a more formal structure: a European Anti-Corruption Network. He stressed the fact that the activities of EPAC and of the planned Network which focused on the sharing of experience at operational (as opposed to political) level could be seen as complementary to the work of GRECO. Moreover, the network would have no monitoring role. The establishment of a catalogue of contact partners who were practitioners facilitated, among other things, the identification of common standards and best practices, the implementation of international standards and exchanges of experience on prevention, education, etc.
24. The success of the first International Anti-Corruption Summer School organised in Austria in 2007 was commented on by GRECO representatives and note was taken of the establishment of a practitioners alumni network which would be expanded following the 2008 summer school.
25. Mr Kreutner expressed interest in further cooperation between EPAC and GRECO with a view to enhancing synergies between the work of the two bodies.

X. Adoption of decisions

26. The decisions of the 37th Plenary Meeting were adopted, as they appear in document Greco (2008) 7E.

XI. Forthcoming meetings

27. GRECO noted that the Bureau would hold its 44th meeting in Strasbourg on 19 May 2008. The 38th Plenary Meeting would be held in Strasbourg on 9-13 June 2008.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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Rapport du Troisième Cycle sur l'ESTONIE****ETS 173**

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**Third Round Evaluation Report on ICELAND /
Rapport du Troisième Cycle sur l'ISLANDE**

ETS 173

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Mme Sally BAILEY

Mme Chloé CHENETIER

Mme Julia TANNER

APPENDIX II

AGENDA / ORDRE DU JOUR

1. Opening of the meeting / *Ouverture de la réunion*
2. Adoption of the agenda / *Adoption de l'ordre du jour*
3. Information from the President, Delegations and the Executive Secretary (including on Bureau 43) / *Information du Président, de Délégations et du Secrétaire Exécutif (y compris sur Bureau 43)*
4. **First reading** of draft Evaluation Reports / **Première lecture** de projets de Rapport d'Evaluation:

Third Evaluation Round / *Troisième Cycle d'Evaluation*
 - **Estonia / Estonie** (Monday – Tuesday / *lundi - mardi*)
 - **Iceland / Islande** (Tuesday – Wednesday / *mardi – mercredi*)Joint First and Second Evaluation Rounds / *Premier et Deuxième Cycles d'Evaluation conjoints*
 - **Switzerland / Suisse** (Wednesday - Thursday / *mercredi - jeudi*)
5. Examination and adoption of the Second Round Compliance Reports on **Cyprus** and **Hungary** / *Examen et adoption des Rapports de Conformité du Deuxième Cycle sur Chypre et la Hongrie*
6. Examination and adoption of the Joint First and Second Round Compliance Report on **Turkey** / *Examen et adoption du Rapport de Conformité des Premier et Deuxième Cycles conjoints sur la Turquie*

- 7. Exchange of views with Mr Martin KREUTNER, Chair, European Partners against Corruption – **Thursday** 3 April, 14h00 / *Echange de vues avec M. Martin KREUTNER, Président, European Partners against Corruption – jeudi 3 avril, 14h00*

8. **Second reading** and adoption of the draft Third Round Evaluation Reports on Estonia and Iceland and of the Joint First and Second Round Evaluation Report on Switzerland (**Friday**) / **Deuxième lecture** et adoption des projets de Rapport d'Evaluation du Troisième Cycle sur l'Estonie et l'Islande et du projet de Rapport d'Evaluation des Premier et Deuxième Cycles conjoints sur la Suisse (**vendredi**)
9. Miscellaneous / *Divers*
10. Adoption of decisions / *Adoption des décisions*
11. Dates of next meetings / *Dates des prochaines réunions*