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Addendum

Second Evaluation Round

Addendum to the Compliance Report on "the former Yugoslav Republic of Macedonia"

Adopted by GRECO
at its 44th Plenary Meeting
(Strasbourg, 6-8 October 2009)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on “the former Yugoslav Republic of Macedonia” at its 25th Plenary Meeting (14 October 2005). This report (Greco Eval II (2004) 11E) addressed 14 recommendations to “the former Yugoslav Republic of Macedonia” and was made public on 2 December 2005.
2. “The former Yugoslav Republic of Macedonia” submitted the Situation Report required under the GRECO compliance procedure on 3 May 2007. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC Report) on “the former Yugoslav Republic of Macedonia” at its 34th Plenary Meeting (19 October 2007). This last report was made public on 7 January 2008. The Compliance Report (Greco RC-II (2007) 8E) concluded that recommendations ii, iii, iv, vi, xi and xiii had been implemented satisfactorily and recommendations v, vii and x had been dealt with in a satisfactory manner. Recommendations i, viii, ix and xiv had been partly implemented and recommendation xii had not been implemented; GRECO requested additional information on their implementation. This information was provided on 8 May 2009.
3. The purpose of this Addendum to the Second Round Compliance Report is, in accordance with Rule 31, paragraph 9.1 of GRECO's Rules of Procedure, to appraise the implementation of recommendations i, viii, ix, xii and xiv in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to prepare a project for the implementation of the new proceeds of crime legislation on confiscation and seizure and connected issues, including the establishment of guidelines and thorough training for the officials concerned and to collect detailed information on the use, and failure to use, confiscation and interim measures in order to be able to evaluate how the system operates in practice.*
5. GRECO recalls that in the Second Round Compliance Report, note was taken of reported measures to promote financial investigations, including the distribution to the law enforcement institutions of a manual on financial investigations and confiscation of proceeds of crime as well as some training activities. However, GRECO concluded that the recommendation had only been partly implemented, as additional efforts to enhance the practical application of the new legal provisions on seizure and confiscation of proceeds of crime were needed, as well as data-gathering in view of an evaluation of the practical application of this legislation.
6. The authorities now report about additional training activities, in particular a series of 14 seminars on confiscation and interim measures organised during the period November 2007 - August 2009 by the Academy for Training of Judges and Prosecutors which were attended by 269 judges, prosecutors and representatives of other institutions; moreover, seizure and confiscation of proceeds of crime were also dealt with in the framework of regular training on corruption-related issues by the Academy for Judges and Prosecutors and in the framework of the twinning project “Division for Combating Organised Crime and Corruption – Public Prosecution”.

7. Moreover, the authorities make reference to several legislative measures, including the adoption of the Law on the Management of Confiscated Property, Property Advantage and Taken Items in Criminal Offences and Misdemeanors Procedures in July 2008 (published in the Official Gazette n°98/08; entry into force on 1 January 2009) – aimed at avoiding misuse and uneconomical conduct in handling confiscated property. This law is implemented by the newly established Agency for the Handling of Confiscated Property, which is also competent for the preparation of financial and statistical reports on confiscated property and has started to collect data for that purpose: according to the information submitted, in the period 2007-2008, specific measures of confiscation of property and material profits, as well as prohibition to perform a profession, activity or duty were imposed in 13 out of 27 cases of organised crime and corruption. As regards interim measures, 40 million Euros were frozen and a ban on working with shares was imposed on 7 natural and 6 legal persons. Finally, the authorities referred to new legislation aimed at amending the Criminal Code and the Criminal Procedure Code, *inter alia*, in order to integrate international standards (in particular as regards extended confiscation of proceeds of crime).
8. GRECO takes note of the information provided with regard to further training activities and welcomes that additional legislative measures to improve the implementation of the proceeds of crime legislation on confiscation and seizure have been reported. It also takes note of the recent establishment of the Agency for the Handling of Confiscated Property and of the data gathered by it. GRECO stresses how important it is that this Agency continues detailed data-gathering on the use, and failure to use, confiscation and interim measures with a view to an evaluation of the practical operation of the system, in line with the recommendation.
9. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation viii.

10. *GRECO recommended to consider establishing a regulatory framework of modern administrative principles for the large number of public officials who are not civil servants, which correspond, to the extent possible, to the regulations applicable to civil servants.*
11. GRECO recalls that according to the Compliance Report, some consideration had been given to the establishment of a regulatory framework for the status and terms of employment of public officials – namely by analysing the need for specific legislation, but no substantial progress had been reported, and GRECO therefore concluded that recommendation viii had been partly implemented.
12. The authorities now report that the analysis of the need for a law regulating the status and conditions of employment of public officials was completed by the Ministry of Justice and adopted by the Government on 7 September 2009. The analysis contains a proposal to prepare a framework law on public administration regulating, *inter alia*, employment procedures, disciplinary measures and procedures for termination of service. The authorities indicate that it is planned to adopt such legislation – the Law on the Regulation of the Status of Employees in Public Administration – by the end of 2009, pursuant to the National Programme for the Adoption of the Acquis.
13. GRECO takes note of the information provided with regard to the analysis of the need for a law regulating the status and conditions of employment of public officials and the planned early adoption of such legislation.

14. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation ix.

15. *GRECO recommended to introduce codes of conduct for all public officials including clear rules for reporting suspicions of corruption and to provide training on such matters as well as the risks of corruption, preventive measures and public awareness raising.*
16. GRECO recalls that in the Compliance Report, the planned introduction of an obligation on civil servants to report suspicions of corruption in the Code of Ethics for Civil Servants as well as some training on the prevention and repression of corruption in the Government and Local Administration were noted. However, GRECO stressed that codes of conduct containing such a rule, as well as training activities regarding the reporting of suspicions of corruption, should be introduced for all categories of public officials. Consequently, the recommendation was considered partly implemented.
17. The authorities now state that once the planned Law on the Status and Conditions of Employment of Public Officials is adopted (see paragraph 12 above), a code of conduct for public officials including rules for reporting suspicions of corruption will be prepared. They furthermore submit that a code of ethics for members of the government and holders of public functions appointed by the government including such rules has already been adopted.
18. The authorities furthermore report on several training activities on the risks of corruption, ethics in the State service, preventive measures and public awareness raising, for judges and prosecutors (such training was attended by 540 participants during the period November 2007 - August 2009), for central and local level civil servants (such training was provided to approximately 155 civil servants in October 2008 and in 2009, and is planned to be continued in the course of 2009), and for the police.
19. GRECO takes note of the information provided with regard to the planned preparation of a code of conduct for public officials including rules for reporting suspicions of corruption, in addition to the existing code of ethics for members of government and officials appointed by government, and with regard to training activities on corruption-related issues organised for a number of civil servants. However, GRECO notes that a code of conduct for all public officials – as required by the recommendation – has still not been introduced and reiterates that training on such matters should be provided to all public officials and not only to civil servants.
20. GRECO concludes that recommendation ix has been partly implemented.

Recommendation xii.

21. *GRECO recommended to adopt legislative or other measures to ensure that legal persons can be held liable for the criminal offence of trading in influence, in accordance with Article 18 of the Criminal Law Convention on Corruption (ETS 173).*
22. GRECO recalls that in the Compliance Report, it was noted that an amendment to the Criminal Code had been drafted in order to establish criminal liability of domestic and foreign legal persons for the offence of trading in influence. However, as the amendment bill had not yet been adopted, GRECO concluded that the recommendation had not been implemented.

23. The authorities now indicate that the Law on Changing and Supplementing the Criminal Code – whose article 93 introduces corporate liability for the offence of trading in influence, under section 359, paragraph 7 of the Criminal Code – was adopted by Parliament on 10 September 2009.
24. GRECO takes note of the information provided and welcomes the establishment of corporate liability for the offence of trading in influence.
25. GRECO concludes that recommendation xii has been implemented satisfactorily.

Recommendation xiv.

26. *GRECO recommended to establish extensive training for police, prosecutors and judges on corporate liability of legal persons and the implications of corporate liability legislation for the investigation, prosecution and adjudication of relevant cases.*
27. GRECO recalls that in the Compliance Report, note was taken of a number of training activities with regard to the newly established criminal liability of legal persons, which had been provided to police officers of the department for organised crime, prosecutors, customs officials, tax officials, and to officials of the Financial Intelligence Unit (FIU) and of the financial police. Nevertheless, GRECO considered that the practical application of this legislation still needed to be encouraged by way of further training for police, prosecutors and judges, and concluded that the recommendation had been partly implemented.
28. The authorities now report on the organisation of further training activities, namely two training seminars on the issue of criminal liability of legal persons, organised in 2008 by the Academy for the Training of Judges and Prosecutors for 33 judges and 9 prosecutors, which are planned to be continued in the future; and international specialised training for the police which will be organised by the Ministry of Interior, in cooperation with the US Federal Bureau of Investigation, within the framework of a project for regional training of police inspectors.
29. GRECO takes note of the information provided. GRECO notes that additional training activities in the area of criminal liability of legal persons have been reported and encourages the authorities to persist in their efforts and to continue such training for police, prosecutors and judges.
30. GRECO concludes therefore that recommendation xiv has been implemented satisfactorily.

III. CONCLUSION

31. In addition to the conclusions contained in the Second Round Compliance Report on “the former Yugoslav Republic of Macedonia” and in view of the above, GRECO concludes that recommendations i, viii, xii and xiv have been implemented satisfactorily. Recommendation ix remains partly implemented.
32. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 14 recommendations addressed to “the former Yugoslav Republic of Macedonia”, in total 13 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. As regards the partly implemented recommendation, GRECO welcomes the reported plan to prepare a code of conduct for all public officials including rules for reporting suspicions of corruption and urges the authorities to implement this project as soon as possible.

33. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of “the former Yugoslav Republic of Macedonia”. The authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendation ix.
34. Finally, GRECO invites the authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.