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## **Joint First and Second Round Evaluation**

### **Compliance Report on Turkey**

Adopted by GRECO  
at its 37<sup>th</sup> Plenary Meeting  
(Strasbourg, 31 March-4 April 2008)

## I. INTRODUCTION

1. GRECO adopted the Joint First and Second Round Evaluation Report on Turkey at its 27<sup>th</sup> Plenary Meeting (6-10 March 2006). This report (Greco Eval I-II Rep (2005) 3E) was made public by GRECO, following authorisation by the authorities of Turkey, on 30 November 2006.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Turkey submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 1 October 2007. An amended version of the Situation Report was submitted on 28 February 2008.
3. GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Germany and Montenegro to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Matthias KORTE on behalf of Germany and Ms Vesna RATKOVIC on behalf of Montenegro. 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 Turkey to comply with the recommendations contained in the Joint Evaluation Report.

## II. ANALYSIS

5. It was recalled that in its Joint Evaluation Report GRECO addressed 21 recommendations to Turkey. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended to develop systems for monitoring the impact of anti-corruption measures for the various sectors concerned.*
7. The authorities of Turkey report on the setting up of a joint project on "Ethics for the Prevention of Corruption in Turkey" by the Council of Ethics with the assistance of the Council of Europe and the European Union, to be implemented during the period 2007-2009 and which, *inter alia*, provides for the elaboration of studies to evaluate the effectiveness of anti-corruption measures implemented in recent years – e.g. legislative measures regarding the Penal Code, the Law on Access to Information and the Code of Ethics – and the preparation of proposals for improved management, coordination and monitoring of anti-corruption strategies in Turkey. Moreover, the authorities indicate that the "Ministerial Commission for Enhancing Transparency in Turkey and Improving Good Governance" has prepared a monitoring report on anti-corruption policies of the 58<sup>th</sup> and 59<sup>th</sup> Governments as well as on legislative and administrative practices for eliminating corruption and enhancing transparency, which includes *inter alia* a list of activities carried out and targets reached, activities to be undertaken in line with the national development plans and strategy documents as well as unfulfilled obligations arising from international agreements and conventions.
8. GRECO takes note of the information provided with regard to the Ministerial Commission's monitoring report on anti-corruption policies of the 58<sup>th</sup> and 59<sup>th</sup> Governments, including a list of activities carried out and targets met. GRECO recalls that the recommendation aimed more specifically at the development of systems to monitor the efficiency of anti-corruption measures, but the information submitted by the authorities suggests that the Ministerial Commission's report

might constitute a useful basis for further fully-fledged monitoring. In this respect, GRECO acknowledges that the elaboration of studies to evaluate the effectiveness of anti-corruption measures implemented in recent years is said to be one of the main components of the joint project on "Ethics for the Prevention of Corruption in Turkey". GRECO welcomes the international support provided to the project and, as it is still at an initial stage, encourages the authorities to vigorously pursue their efforts in this area.

9. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

**Recommendation ii.**

10. *GRECO recommended to entrust a body with the responsibility of overseeing the implementation of national anti-corruption strategies as well as proposing new strategies against corruption. Such a body should represent public institutions as well as civil society and be given the necessary level of independence in its monitoring function.*
11. The authorities state that the "Ministerial Commission for Enhancing Transparency in Turkey and Improving Good Governance" has been given, by Prime Ministerial Circular (No.2006/32), the additional tasks of coordination with international organisations and establishing general principles for anti-corruption measures. The same Commission was restructured following the elections of 22 July 2007 and is now headed by the Minister of the Interior. The authorities state that the Commission has proved to be a useful instrument for steering public authorities' promotion of anti-fraud and anti-corruption policies and for providing them as well as the Government with technical guidance. They further make reference to cooperation between law enforcement agencies, coordination of inter-ministerial investigations by the Prime Ministry Inspection Board, cooperation of Government agencies in money laundering cases via an advisory council and to the role of Parliament in investigating corruption and fraud cases by means of investigation committees.
12. GRECO acknowledges the existence of various State bodies and forms of cooperation aimed at improving the fight against corruption. That said, the recent Ministerial Commission, now headed by the Minister of the Interior, is yet another example of the strong influence of the State and, in particular, of law enforcement in anti-corruption efforts in Turkey. However, the recommendation aimed at the establishment of an oversight body, with the involvement of civil society and with some degree of independence from the Government. The task of such a body should not be confused with the coordination of repressive measures carried out by the law enforcement agencies.
13. GRECO concludes that recommendation ii has not been implemented.

**Recommendation iii.**

14. *GRECO recommended to establish or assign a specialised unit with investigative powers in cases of corruption, for the sharing of information between law enforcement agencies and to provide advice to law enforcement agencies on preventive and investigative measures.*
15. The authorities report on records to be kept by the Police, Gendarmerie and Coast Guard units as well as on the sharing of information – which can also be accessed online – relating to those records which concern persons deprived of certain rights (e.g. debarment from public services), stolen and missing motor vehicles, fire arms or documents for identification. They further refer to

daily “Public Order Meetings” in the provinces, headed by the Governor and with the participation of the Provincial Chief of Police, the Gendarmerie Commander and the Chief Public Prosecutor, for mutual information sharing, including on corruption cases. Moreover, they mention an increase of strategic and operational cooperation between Police, Gendarmerie, Customs and Coast Guard units which have conducted 36 joint investigations in the area of corruption and financial crimes during the last four years, as well as the possibility to establish, in complex corruption cases, temporary Inter-Agency Task Forces (ITF) under the supervision of the public prosecutor, including representatives of judicial investigative bodies and regulatory/supervisory administrative authorities. Finally, the authorities report on the establishment of the “Turkish National Bureau” under the General Directorate of the Turkish National Police (“Interpol Europol Siren Department”), in order to enhance, at national level, the cooperation between the law enforcement authorities in respect of international crimes.

16. GRECO takes note of the information provided with regard to the sharing of information and cooperation of law enforcement bodies. Whereas some of the measures reported were used already before the adoption of the Evaluation report, some others appear to be new and to go in the right direction, such as mutual information sharing. However, the reason for this recommendation was the lack of a specialised unit with investigative powers for corruption cases. GRECO notes that the recently established Turkish National Bureau is apparently not a specialised unit with investigative powers in cases of corruption and that the setting up of such a specialised unit has thus not been reported yet.

17. GRECO concludes that recommendation iii has not been implemented.

#### **Recommendation iv.**

18. *GRECO recommended to enhance/establish co-ordinated training on corruption detection and investigation for all law enforcement officers specialised in corruption cases.*

19. The authorities mention various courses relating to the fight against corruption which are offered by the Police Academy Faculty of Security Sciences, as well as several conferences about “The Fight Against Corruption in Turkey and the Role of the Police” which were organised during the period May-June 2007 with a total number of 3,812 participants. Moreover, they make reference to training activities for law enforcement officials, which were provided by the National Police and included, *inter alia*, training of 953 officials (of the Ministry of Justice, the Under-Secretariat for Customs, the Financial Crimes Investigation Board MASAK – the Turkish FIU –, the Gendarmerie and the General Directorate for Security) in the framework of the “Project on Strengthening The Fight Against Money Laundering, Financial Sources of Crime and Financing Terrorism” during the period April 2005-April 2007, training of 650 officials of all law enforcement units in the framework of the “Project on Strengthening the Fight Against Organized Crime” during the period March 2004-November 2005, “Specialisation Training on Fighting Against Fraudulent Acts” for 77 officials of the Department of Anti Smuggling and Organised Crime of the National Police (KOM), “Specialisation Training on the Fight Against Qualified Fraud and Corruption” for 74 officials of the KOM and periodical Interpol Training Courses (the last held in April 2007) on combating international crime, including money laundering and corruption, with the participation of representatives from several ministries, national central and local police departments, Gendarmerie, customs and the coast guard.

20. GRECO notes that extensive training activities for officials of the different law enforcement bodies, including aspects of the fight against corruption, have been reported. GRECO

encourages the authorities to continue the organisation of such training, to focus more specifically on corruption detection and investigation and to strengthen the co-ordinated training between the Police and Gendarmerie in this area.

21. GRECO concludes that recommendation iv has been implemented satisfactorily.

**Recommendation v.**

22. *GRECO recommended to further enhance the independence of judges vis-à-vis the Ministry of Justice, concerning their supervision and appointment.*

23. The authorities report that the number of members of the Oral Examination Board has been increased to seven by the addition of two representatives of the Executive Board of the Justice Academy (members of the Council of State and of the Court of Cassation) and that the role of the oral examination in the assessment of the eligibility of candidate judges and prosecutors has been reduced to 30%. They further indicate that the composition of the Supreme Council of Judges and Prosecutors which is responsible for the appointment and promotion of all judges, has not changed. Moreover, they stress that the supervision of judges is still carried out by the Judicial Inspection Board of the Ministry of Justice, but that some procedures have changed: according to the Regulation on the Judicial Inspection Board of 27 January 2007, the Ministry of Justice judiciary inspectors now have to prepare their reports on the basis of standardised forms using numerical marks (1 to 100), they have to support evaluations graded with “low” or “average” by evidence, and judges have the right to consult inspection records, which are considered to be information notes in the meaning of the Law on the Right of Access to Information (Article 95), and to challenge the recommendations of the inspectors (Article 87). The authorities add that since 2006, evaluation sheets – which are not conclusive, the final evaluation being carried by the Supreme Council of Judges and Prosecutors – can be subject to administrative judicial review.

24. GRECO takes note of the information provided. Although it would appear that minor adjustments to the procedures for the examination of candidate judges and prosecutors as well as some procedural safeguards with regard to the supervision and appraisal of judges have been introduced, GRECO sees no real progress concerning the principal issue of the independence of judges vis-à-vis the executive power, i.e. the Ministry of Justice, in relation to their appointment and supervision which are still tightly linked to the Ministry of Justice.

25. GRECO concludes that recommendation v has not been implemented.

**Recommendation vi.**

26. *GRECO recommended to further promote the full establishment of the Justice Academy as an exclusive training institution for judges and prosecutors and to enhance their on-going training on specialised topics such as economics and finances relevant to the prosecution and adjudication of corruption offences.*

27. The authorities report that the move to new premises in 2005, the allocation of a budget of 5,503,000 TRL/ca. 2,696,470 EUR<sup>1</sup> in 2006, 7,822,000 TRL/ca. 3,832,780 EUR in 2007 and 8,757,000 TRL/ca. 4,290,930 EUR in 2008 as well as a number of recently enacted regulations have made it possible to further develop the activities of the Justice Academy which has organised, since 2005, 11 symposiums in the framework of the project “Modernisation of Justice

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<sup>1</sup> Exchange rate from TRL to EUR as of 4 April 2008.

and Penal Reform” with 800 participating judges and prosecutors; has launched a cooperation programme with Utrecht University on “Internalisation of Human Rights Standards and Strengthening of Local Capacity” for candidate judges (244 out of 440 candidates have been trained so far), judges and prosecutors; and has begun to focus increasingly on in-house training activities (planned number of participating judges and prosecutors: 850 in 2007; 1,650 in 2008; 1700 in 2009). The authorities further indicate, with regard to training on specialised topics, that 737 candidate judges and prosecutors attended conferences on money laundering, smuggling, corruption, seizure and confiscation as part of their pre-service training during the period June 2006-February 2007, that, in addition, candidates are trained on crimes against the reliability and functioning of public administration such as corruption or money laundering, and that specific in-house training courses are planned in the long term training programme 2007-2009 (e.g. 5 day courses for 80 judges and prosecutors on corruption, money laundering and smuggling; 5 day courses for 120 judges and prosecutors on crimes regarding bank law and international payment systems; 5 day courses for 100 judges and prosecutors on special investigation techniques).

28. GRECO welcomes the reported increase in training activities for judges and prosecutors provided by the Justice Academy. GRECO understands that further progress can be expected in the future as regards the organisation of more training, in particular on specialised topics such as economics and finances relevant to the prosecution and adjudication of corruption offences.
29. GRECO concludes that recommendation vi has been dealt with in a satisfactory manner.

#### **Recommendation vii.**

30. *GRECO recommended to reconsider the system of immunities of members of Parliament in such a way as to establish specific and objective criteria to be applied when deciding on requests for the lifting of immunities and to ensure that decisions concerning immunity are free from political considerations and are based on the merits of the request submitted by the prosecutor.*
31. The authorities indicate that the recommendation was submitted to the recently elected Parliament (July 2007) and it is expected that this issue will be dealt with by Parliament either in the framework of the constitutional reform or separately.
32. In the absence of any further information on this matter, GRECO can only conclude that recommendation vii has not been implemented.

#### **Recommendation viii.**

33. *GRECO recommended to analyse the effects of the administrative authorisation for prosecution on the effectiveness of the criminal proceedings and to consider reforming the system of preliminary administrative investigation and administrative authorisation for prosecution, in order to reduce the categories of public officials who de facto benefit from immunities from criminal proceedings.*
34. The authorities report that in order to analyse the effects of the administrative authorisation for prosecution on the effectiveness of the criminal proceedings and to consider reforming the system of preliminary administrative investigation and administrative authorisation for prosecution, a working group consisting of representatives of the Directorate General for Legislation, International Law and Foreign Relations, Criminal Affairs, Judicial Records and Statistics of the Ministry of Justice, a Deputy Chief Public Prosecutor responsible for crimes

committed by public servants and a Chief Inspector of the Prime Ministry Inspection Board has been set up. They state that the working group has analysed data collected from the Directorate General for Judicial Records and Statistics of the Ministry of Justice and the Public Prosecutor Office of Ankara and that it has submitted a report to the Directorate General for Legislation of the Ministry of Justice and to the Prime Ministry Inspection Board for further evaluation, in view of possible reform projects.

35. GRECO takes note of the reported analysis of the effects of the administrative authorisation for prosecution on the effectiveness of the criminal proceedings. However, no concrete consideration seems to have been given yet to reforming the system of preliminary administrative investigation and administrative authorisation for prosecution.
36. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

37. *GRECO recommended to establish guidelines and thorough training for the officials, who apply the new rules on confiscation and seizure (law enforcement, prosecutors and judges), and to collect detailed information on the use, and failure to use, confiscation and interim measures in order to be able to assess how the system operates in practice.*
38. The authorities report that a detailed guideline on the “Principles and procedures of laundering and seizure of proceeds of crime investigations” was sent to all central and provincial police units on 27 April 2007. Moreover, they indicate that guiding principles regarding seizure and confiscation were elaborated during a seminar for judges, prosecutors and members of law enforcement authorities and the financial intelligence unit in July 2007 and made available on the web page of the Ministry of Justice. They add that further indications as regards the execution of seizure and confiscation, including cases of international judicial cooperation, are contained in ministerial circulars.
39. Regarding training activities, the authorities indicate that 953 officials from all law enforcement units and members of the Ministry of Justice were trained on seizure and confiscation of criminal proceeds between April 2005 and April 2007 in the framework of a European Union Twinning Project on “the Fight Against Money Laundering, Financial Sources of Crime and Financing Terrorism”. They furthermore report that the Ministry of Justice organised a number of training activities, in particular, training on the new Criminal Code and the new Code of Criminal Procedure including the new rules on confiscation and seizure for all prosecutors and judges (during the period January 2005-December 2006); 3 seminars on the investigation and prosecution techniques with regard to the confiscation of assets, with the participation of judges, prosecutors and law enforcement units (in February and March 2006, in cooperation with the United States Embassy); a seminar on the “Methods and Practices in the Fight Against Corruption” in which the provisions of the United Nations Convention Against Corruption and the domestic practices were discussed by Turkish and American experts as well as 30 judges and prosecutors (in May 2007, in cooperation with the United States Embassy); a training seminar on “Search, Seizure and Confiscation Measures in the Fight Against Corruption” with the participation of 40 judges and prosecutors as well as members of law enforcement authorities and the financial intelligence unit (in July 2007), a seminar on “Seizure and Confiscation of the Proceeds of Crime” for judges and prosecutors dealing specifically with organised crime as well as with seizure and confiscation (in October 2007); and a workshop on “Combating terrorism,

money laundering and financing of terrorism”, including the topic “Forfeiting the Assets deriving from crimes”, with the participation of 63 judges and prosecutors (in February 2008).

40. Finally, the authorities state that statistical forms for the collection of data on the use of confiscation and interim measures from the UYAP (National Judiciary Information System) database were prepared by the Ministry of Justice and that a working group was established within the Ministry, including members of the Directorates General for International Law and Foreign Affairs, Penal Affairs and Legislation, in order to assess – on the basis of the collected data – how the system operates in practice.
41. GRECO takes note of the information provided and concludes that recommendation ix has been implemented satisfactorily.

#### **Recommendation x.**

42. *GRECO recommended to implement guidelines at central level for all public administrations as to the fees to be charged when information is requested under the Law on Right to Access to Information.*
43. The authorities report that a guideline at central level for all public administrations as to the fees to be charged when information is requested under the Law on Right to Access to Information is contained in the Ministry of Finance’s “General Communication on the Fee for Access to Information and Documentation” of 1 March 2006.<sup>2</sup> They indicate that this communication includes a schedule of fees as well as principles and procedures for implementation. It is laid down, for example, that the first ten pages of written or printed information are free of charge (postage included), that a fee must be in proportion with the expenses related to examination, research, act of writing, copying, post and other cost elements and outlay, incurred by access to information or documentation and must not exceed the cost amount and that an explanation of the reasons for and the elements of the fee have to accompany the fee notice. Finally, the authorities indicate that according to the schedule of fees, in principle, written and printed information and documentation held by institutions and agencies and of which the printing is allowed, are currently provided for a fee of 0.5 TRL/ca. 0.25 EUR for black-and-white printing, scanning or copying and a fee of 1 TRL/ca. 0.49 EUR for colour printing, scanning or copying for each page after the first ten pages ; for expenses incurred by research and review, other cost elements and outlay, an additional amount, which must currently not exceed 5 TRL/ca. 2.45 EUR per page or 100 TRL/ca. 49 EUR in total, is to be determined by the administrative body concerned. By contrast, information and documentation sent by electronic mail is free of charge, except for the expenses incurred by review, research, printing, scanning, copying and other cost elements.
44. GRECO takes note of the information provided and concludes that recommendation x has been implemented satisfactorily.

#### **Recommendation xi.**

45. *GRECO recommended to strengthen the independence of the Board of Review of Access to Information; that it be given a dedicated budget and dedicated staff sufficient for it to undertake its role in hearing and determining appeals and to act as the authoritative source of advice and guidance to public bodies in their application of the Law on Right to Access to Information.*

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<sup>2</sup> The exact content of the Communication was not available to GRECO at the time of the adoption of the Evaluation report.



46. The authorities report that with a view to strengthening the independence of the Board of Review of Access to Information, preparations were made to provide a dedicated budget to the Board, within the budget of the Prime Ministry Head of Public Affairs. They further indicate that expert staff of the Board's secretariat has been increased from three to six and has been mandated to deal specifically with "affairs concerning the Board of Review of Access".
47. GRECO takes note of the information that the secretariat of the Board of Review of Access to Information has been reinforced and that preparations were made to provide the Board with a dedicated budget. GRECO notes, however, that a budget has not yet been allocated to the Board and that no further measures to strengthen its independence have been reported.
48. GRECO concludes that recommendation xi has been partly implemented.

#### **Recommendation xii.**

49. *GRECO recommended to provide the Ethics Council with sufficient independence, providing it with an appropriate budget and staff that would enable it to promote and promulgate the new codes of ethics throughout the public administration; to properly investigate complaints made against senior officials and undertake proactive studies into particular areas of concern in respect of ethical behaviour and corruption in the public administration.*
50. The authorities indicate that the staff of the Ethics Council's secretariat has been increased from five to ten members (six experts, four administrative officers) and that according to Law No. 5176 /2, expenditure for transportation, per diems, attendance fees and other needs of the Ethics Council are provided from the budget of the General Directorate of Personnel and Principles of the Prime Ministry.
51. GRECO is pleased to learn that the secretariat of the Ethics Council has been reinforced. However, it is still closely dependant on the Government, from where it gets its funding. No measures to provide the Ethics Council with sufficient independence and with an appropriate regular budget which would enable it, in particular, to properly investigate complaints made against senior officials and to undertake proactive studies, have been reported. Further efforts are clearly required to meet the purpose of the recommendation.
52. GRECO concludes that recommendation xii has been partly implemented.

#### **Recommendation xiii.**

53. *GRECO recommended to develop training material to be used in the training of all civil servants on the new Code of Ethics and anti-corruption policies and to require all ministries and civil service bodies to include this training as part of their curriculum; it should be ensured that it forms a core part of the induction training for new civil servants as well as in the in-service training.*
54. The authorities indicate that according to the "Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials", public officials of all levels should be informed about the principles of ethical behavior and the deriving responsibilities as part of the employment rules (article 24), and managers should ensure that these principles are integrated in the induction and in-service training programmes for public officials (article 25). Furthermore, they report that the project "Ethics for the Prevention of Corruption in Turkey", which aims at promoting

a culture of ethics in Turkey, is planned to be implemented during the period 2007-2009 with financial support from the European Union (1.5 million EUR). This project will include training for public servants and managers of central and local bodies, information about ethical principles to be included in decision-making processes, analysis of other countries' ethical practices, preparation of a training module and training of trainers. Finally, the authorities make reference to a draft circular of the Prime Ministry aiming at, *inter alia*, training of public officials on "Professional Ethics Principles" to be provided by public institutions.

55. GRECO takes note of the information submitted with regard to the legal requirement of providing training on ethical principles to public officials, to the preparation of a project for its implementation in practice called "Ethics for the Prevention of Corruption in Turkey" and to a draft circular of the Prime Ministry aiming at training of public officials in this area. However, the above-mentioned project is yet to be implemented and actual training activities for all public officials on the Code of Ethics along the lines set out in the recommendation have apparently not been undertaken.
56. GRECO concludes that recommendation xiii has been partly implemented.

#### **Recommendation xiv.**

57. *GRECO recommended to consider reforming the system of Inspection Boards – in the light of the on-going overall reforms of public administration and of a more specialised law enforcement system.*
58. The authorities report that on the basis of the Law on Public Financial Management and Control of 2003 (Law No. 5018), the Internal Audit Coordination Board (IACB) was established in order to fill the gaps in the system of audit processes and to ensure effective communication with other control bodies. To this end, the IACB was entrusted with determining audit and reporting standards and codes of ethics, preparing and developing audit guidelines, developing risk assessment methods, organising training programmes for internal auditors, helping overcome disagreements between internal auditors and heads of administrative bodies, evaluating and consolidating administrations' internal audit reports, submitting them as an annual report to the Minister of Finance and making them public and, finally, developing a quality assurance and improvement programme and evaluating its implementation. The authorities claim that the Law No. 5018, along with other recent constitutional and legal amendments, also strengthened the external audit in line with INTOSAI standards and to this end, provided the Court of Accounts (TCA) with additional powers and audit capacities and suggested a close collaboration between internal and external audit mechanisms. The authorities indicate that the implementation of the aforementioned amendments is still under way and needs to be fine-tuned with the existing inspection boards in order to minimise gaps in the control structure, prevent overlapping and ensure effective co-existence of the different control bodies. However, several meetings of the IACB and the major inspection boards have already helped identify problematic areas to be resolved by means of more frequent common meetings.
59. GRECO takes note of the information provided which only deals with reforms to improve the systems for auditing public administration. However, the main concern of the recommendation clearly was the reform of the Inspection Boards, in particular regarding the roles of other public administrative bodies (such as audit agencies) and of law enforcement in investigating corruption. Nothing has been reported in this respect.

60. GRECO concludes that recommendation xiv has not been implemented.

**Recommendation xv.**

61. *GRECO recommended to give high priority to the establishment of an Ombudsman institution, independent from the Executive, with a wide mandate to deal with complaints from the public concerning maladministration; and to provide for an awareness campaign throughout Turkey once relevant legislation is adopted.*

62. The authorities report that the establishment of an Ombudsman was planned on the basis of the Law on the Ombudsman (Law No. 5548) which had already been published in the Official Gazette (No. 26318) and entered into force on 13 December 2006. However, the President of Turkey brought the Law before the Constitutional Court which decided on 27 October 2006 to suspend the implementation of the temporary 1st article providing "An Ombudsman Institution is established through the election of the Head and at least five members of the Ombudsman Institution". The law, therefore, remains suspended until decision on the merits by the Constitutional Court.

63. GRECO notes that the Law on the Ombudsman has been adopted and that the recommendation aiming at the establishment of an Ombudsman institution has thus been taken seriously. However, as the law has been suspended by the Constitutional Court, GRECO can only conclude at this stage that recommendation xv has been partly implemented.

**Recommendation xvi.**

64. *GRECO recommended to introduce guidelines and training on reporting of corruption and the proper handling of reports as well as to ensure that public officials who report suspicions of corruption in good faith (whistleblowers) are protected.*

65. The authorities report that a law on protection of witnesses and victims, whose life, physical integrity or property – or those of certain relatives specified in the law – appear to be in serious danger, has been adopted and will enter into force in June 2008. They indicate that this protection, which is only foreseen for certain types of offences, would be compulsory in cases where witnesses play an important role in criminal proceedings, and that in accordance with article 3 of the law, witness protection measures are foreseen for bribery offences which are committed by a criminal organisation. The authorities further recall that under article 18 of the Law on Asset Declaration and the Fight Against Corruption and Bribery (Law No. 3628), the identity of whistleblowers must not be revealed without their consent.

66. GRECO notes that a law on witness protection has been adopted. However, no guidelines or training on reporting of corruption and the proper handling of reports have apparently been provided for, neither is there any indication that the issue of specific whistleblower protection has been addressed, beyond the right to anonymity which was already granted to whistleblowers at the time of the adoption of the Evaluation report.

67. GRECO concludes that recommendation xvi has not been implemented.

### **Recommendation xvii.**

68. *GRECO recommended to establish statistics on the use of disciplinary proceedings and sanctions in public administration.*
69. The authorities report on the project to establish a single and centralised database for key information on public officials and to present it to the relevant institutions (“PER-NET”). This project, which will be implemented under the responsibility of the State Personnel Presidency, has been designed to guarantee transparency, participation, accountability and free access to information, as well as a balanced distribution of personnel and fast decision-making within the public sector. The authorities state that the integration of statistical data regarding disciplinary measures into the centralised database is currently under consideration. In order to accelerate this process, the State Personnel Presidency submitted a draft circular aimed at collecting statistics regarding disciplinary measures to the Office of the Prime Minister. The authorities specify that some statistical data on this issue already exists within the ministries concerned.
70. GRECO takes note of the information provided on the existing statistical data at ministry level concerning disciplinary sanctions and on the project to establish a single centralised database for public officials, as well as on the consideration which is given to the possible integration of data regarding disciplinary measures into this project. GRECO encourages the authorities to persist in their efforts in order to establish comprehensive statistics on the use of disciplinary proceedings and sanctions in public administration and to integrate them into the centralised database for public officials.
71. GRECO concludes that recommendation xvii has been partly implemented.

### **Recommendation xviii.**

72. *GRECO recommended to take appropriate measures in order to facilitate access to registration information on the various forms of legal persons.*
73. The authorities report that the establishment of a central registration system of legal persons is part of an action plan to implement the “Information Society Strategy” of 11 July 2006 as adopted by the High Planning Council, aiming at integrating information on companies, associations, cooperatives and other legal entities by allotting a single number to an entity, which will be used by commercial registries, banks, the tax administration and other governmental bodies for transactions relating to the entity. They indicate that the implementation of this project, under the authority of the Ministry of Industry and Trade, is in its final phase and will be followed, once the necessary legal and organisational infrastructures and pilot applications are established, by the introduction of online company transactions, a single point information portal, the integration of business procedures into the electronic environment and company statistics systems. The authorities add that it is planned to provide a legal basis for the establishment of a central registration system accessible online through the draft Commercial Code (article 24) which is currently on the agenda of Parliament.
74. GRECO notes the information provided with regard to the project to establish a central registration system of legal persons. GRECO takes the view that once the planned measures, including the single point information portal and companies statistics systems, have been implemented, they could well be regarded as appropriate measures to facilitate access to registration information on the various forms of legal persons.

75. GRECO concludes that recommendation xviii has been partly implemented.

**Recommendation xix.**

76. *GRECO recommended to ensure that the provisions of the Criminal Code on the application of security measures in relation to legal persons fully comply with the standards of the Criminal Law Convention on Corruption (ETS173) concerning the liability of legal persons.*

77. The authorities claim that so far, there have been no difficulties in applying security measures in relation to legal persons as provided by the Criminal Code which entered into force on 1 June 2005. They further report that the Directorate General of Legislation of the Ministry of Justice has reached the conclusion that the relevant provisions of the Criminal Code are largely compliant with the standards established by the Criminal Law Convention on Corruption, but that consultations on how to fully comply with the recommendation were still continuing. They indicate that to this end, a working group was established within the Ministry of Justice in January 2008 in order to determine and make the necessary legislative amendments in line with GRECO, FATF and OECD review processes.

78. GRECO notes that the Ministry of Justice has taken into consideration recommendation xix and that, after analysing the relevant provisions of the Criminal Code, consultations are currently under way on how to fully comply with the standards of the Criminal Law Convention on Corruption concerning legal persons. However, no concrete steps to ensure full compliance with these standards as described in the Evaluation report, paragraph 226, have apparently been taken yet.

79. GRECO concludes that recommendation xix has been partly implemented.

**Recommendation xx.**

80. *GRECO recommended to establish special guidelines and training for the tax authorities concerning the detection of corruption offences and the effective fulfillment of reporting obligations.*

81. The authorities state that the OECD Bribery Awareness Handbook For Tax Examiners has been distributed to tax examiners and serves as a guide for the in-service training programmes for tax examiners. Moreover, they report on the elaboration of a handbook establishing "Specific Guidelines for Tax Authorities concerning the Detection of Corruption Offences and the Fulfillment of Reporting Obligations", by the Department of Revenue Controllers of the Ministry of Finance, in cooperation with the Ministry of Justice, after taking opinions from the Finance Board of Inspectors and the Board of Tax Inspectors. The authorities specify that these guidelines were sent, in March 2008, to the human resource units concerned and included in the 2008 in-service training programme.

82. GRECO takes note of the reported distribution and use of the Bribery Awareness Handbook For Tax Examiners for training programmes and of the elaboration of a handbook establishing guidelines for the tax authorities concerning the detection of corruption offences and the fulfillment of reporting obligations. GRECO notes that these guidelines were included in the 2008 in-service training programme and encourages the authorities to pursue their efforts and to provide further specific training for tax authorities in this area.

83. GRECO concludes that recommendation xx has been implemented satisfactorily.

**Recommendation xxi.**

84. *GRECO recommended to take adequate measures, including of a legal/regulatory nature, in order to involve accountants and auditors in the policies aimed at detecting/reporting money laundering offences.*

85. The authorities report that the system for combating money laundering and terrorist financing was revised by the Financial Crimes Investigation Board (MASAK) taking into consideration national and international requirements, including GRECO's recommendation. They indicate that according to article 4 of the "Regulation on Measures Regarding the Prevention of Laundering Proceeds of Crime and Financing of Terrorism" which was published in the Official Gazette on 9 January 2008, certified accountants, certified public accountants and sworn-in certified public accountants are obliged to report suspicious transactions with regard to money laundering and terrorist financing offences. The authorities add that pursuant to article 17 of the "Regulation Regarding the Investigation of Laundering Offences" which came into force on 4 August 2007, examiners (Finance Inspectors, Tax Inspectors, Customs Inspectors, Revenue Controllers, Sworn-in Bank Auditors, Treasury Controllers, Experts of the Banking Regulation and Supervision Agency and of the Capital Markets Board who carry out money laundering examinations on behalf of MASAK) have to report serious suspicions and indications about money laundering or terrorist financing, which they encounter while exercising their duties, to MASAK via their administrative units.

86. GRECO welcomes that the reported legislative reforms of the system for combating money laundering and terrorist financing took account of the recommendation and introduced the obligation on a wide range of accountants and examiners, *inter alia* tax examiners and bank auditors, to report suspicious transactions in connection with money laundering and terrorist financing offences.

87. GRECO concludes that recommendation xxi has been implemented satisfactorily.

**III. CONCLUSIONS**

88. **In view of the above, GRECO concludes that Turkey has implemented satisfactorily or dealt with in a satisfactory manner one third of the recommendations contained in the Joint First and Second Round Evaluation Report.** Recommendations iv, ix, x, xx and xxi have been implemented satisfactorily and recommendations i and vi have been dealt with in a satisfactory manner. Recommendations viii, xi, xii, xiii, xv, xvii, xviii and xix have been partly implemented and recommendations ii, iii, v, vii, xiv and xvi have not been implemented.

89. Turkey has made efforts to ensure the practical implementation of existing anti-corruption legislation by, *inter alia*, enhancing training activities on corruption detection and investigation for law enforcement officers, establishing guidelines regarding seizure and confiscation and developing systems for monitoring the impact of anti-corruption measures. In addition, further measures promoting the fight against corruption are currently under preparation, including the provision of statistics on the use of disciplinary measures in public administration and the development of a central registration system of legal persons. Consideration is also being given to reducing the categories of public officials who *de facto* benefit from immunities from criminal

proceedings. However, it appears that Turkey could do much more in order to address GRECO's recommendations. GRECO is particularly concerned that several recommendations of principal importance have not yet been addressed, such as the recommendation to entrust an oversight body, involving the civil society, with the responsibility of overseeing the implementation of national anti-corruption strategies as well as proposing new strategies. Another area of crucial importance which remains to be addressed is that of the independence of the judiciary which is still, despite minor adjustments, closely linked to the executive power i.e. the Ministry of Justice. Moreover, the recommendation to consider reforming the system of Inspection Boards has not been dealt with. GRECO urges the authorities to persist in their efforts to make sure that the outstanding recommendations are dealt with in an expeditious manner.

90. GRECO invites the Head of the Turkish delegation to submit additional information regarding the implementation of recommendations ii, iii, v, vii, viii, xi, xii, xiii, xiv, xv, xvi, xvii, xviii and xix by 31 October 2009.
91. Finally, GRECO invites the authorities of Turkey 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.