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Addendum

First Evaluation Round

Addendum to the Compliance Report on Spain

Adopted by GRECO
at its 24th Plenary Meeting
(Strasbourg, 27 June - 1 July 2005)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Spain at its 5th Plenary Meeting (11-15 June 2001). This report (Greco Eval I Rep (2001) 1E) was made public by GRECO, following authorisation by the Spanish authorities on 19 June 2001.
2. Spain submitted the Situation Report required by GRECO's compliance procedure on 31 March 2003 concerning the implementation of the recommendations. On the basis of these reports and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-report) on Spain at its 15th Plenary meeting (13-17 October 2003) which was made public on 17 October 2003. The Compliance Report (Greco RC-I (2003) 7E) concluded that six of the ten recommendations (ii, v, vi, viii, ix and x) had been implemented satisfactorily or dealt with in a satisfactory manner, whereas four of the recommendations had been partly implemented (i, iii, iv and vii); GRECO requested additional information on their implementation. The additional information requested was submitted on 17 May 2005.
3. Pursuant to Rule 31, paragraph 9.1 of GRECO's Rules of Procedure the objective of the present Addendum to the First Round Compliance Report is to appraise the implementation of recommendations i, iii, iv and vii, in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to draw up an overall multidisciplinary strategy, involving the different authorities concerned in the prevention, detection and prosecution of corruption offences and, in this context, to conduct research on the extent and typologies of corruption phenomena in Spain and compile detailed statistics about detected corruption cases; the Spanish authorities could also consider, in this connection, signing the Criminal and/or the Civil law Convention (s) on corruption, as a visible element of such a strategy.*
5. GRECO recalls that it concluded in the RC-report that, in spite of the various legal and institutional initiatives undertaken by the Spanish authorities in different areas, further efforts needed to take place in practice to satisfactorily implement this recommendation, including signature of the Criminal and/or Civil Law Conventions and more focused measurement and analysis of the phenomenon of corruption in the country.
6. The authorities of Spain have reported that the national strategy to combat corruption consists on several multidisciplinary measures, which are effectively implemented in practice, notably: (i) adoption of legislation (namely, new legislation on money laundering transposing the relevant EC Directives in this field); (ii) establishment of specialised units with competencies in the fight against corruption (Court of Auditors, Commission for the Prevention of Money Laundering and Financial Offences, Special Attorney General's Office for Economic Crimes relating to Corruption, etc.); (iii) development of initial and continuous training for public officials addressing the subject of corruption; (iv) international co-operation, as necessary. The authorities have added that research on the phenomenon of corruption is carried out, but detailed statistics about detected corruption cases have not yet been gathered. Finally, Spain signed the Criminal Law Convention on Corruption (ETS 173) and the Civil Law Convention on Corruption (ETS 174) on 10 May 2005.

7. GRECO has taken note of the information provided and understands that measures to counteract corruption continue to be implemented in Spain; they all constitute important elements of a multidisciplinary strategy against corruption. Furthermore, GRECO welcomes the signature of the above-mentioned conventions and encourages the Spanish authorities to their further ratification. However, no specific examples have been provided concerning the corruption-related research conducted to date; moreover, detailed statistics about detected corruption have not yet been compiled. Therefore, in GRECO's opinion, more could be done to measure and analyse the extent and typologies of corruption phenomena in Spain.
8. In the light of the foregoing, GRECO concludes that recommendation i has been partly implemented.

Recommendation iii.

9. *GRECO recommended to make more extensive use of the possibility offered by Law 10/95 of appointing special State Attorney General (SGA) delegates entrusted with the task of investigating and prosecuting corruption-related offences in major cities, attached to the Special Attorney General's Office for the Repression of Economic Offences related with Corruption (ACPO), and composed of experienced and specially trained prosecutors assisted by equally qualified police officers and officials.*
10. GRECO recalls that the RC-report concluded that additional efforts had to be undertaken to allow for further support services of special SAG delegates at the level of local/provincial/regional prosecution offices.
11. The authorities of Spain have reported that increased budgetary means are allocated on an annual basis to strengthen human and technical capacity of specially trained public prosecutors and police officers. In particular, six special SGA delegates have been appointed to assist in the investigation and prosecution of corruption-related offences at sub-national level in Alicante, the Balearic Islands, Barcelona, Málaga, Las Palmas and Tenerife.
12. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

13. *GRECO recommended to guarantee that the nature and the scope of the powers of the Government in relation to the State Attorney General's Office (SPS) be established by law, exercised in a transparent way and in accordance with international treaties, national legislation and the general principles of law, that instructions of a general nature be made public in writing and that instructions to prosecute in a specific case carry adequate guarantees of transparency and equity, the prosecutor being entitled to submit to the court any legal arguments of their choice, even where they are under a duty to reflect in writing the instructions received.*
14. GRECO recalls that the RC-report concluded that implementation of the 2003 SPS' reform, which aimed at protecting the independence of the public prosecution services and at enhancing their transparency, needed to be further tested to assess compliance with recommendation iv.
15. The authorities of Spain have reported that existing legislation, including the Act 14/2003 amending the Organic Statute of the SPS, provides for significant safeguards to limit and control the nature and scope of the powers of the Government in relation to the SPS. Furthermore, Chief

Attorneys General at the existing special SPS, including the ACPO, are appointed for a five-year period to ensure autonomy and continuity of their mandate despite governmental changes (Article 16, Act 14/2003). The authorities have added that a new amendment of the Organic Statute of the SPS is envisaged to strengthen the SGA independence.

16. Based on the information supplied, GRECO welcomes the steps taken by the Spanish authorities to implement this recommendation. It encourages Spain to pursue the envisaged legislative reform of the SPS aiming at increasing the SGA independence with respect to the Government. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation vii.

17. *GRECO reiterated, in this context, the recommendation made above (cf. i.) on the drawing up of an overall and multidisciplinary strategy for the prevention of corruption which would steer awareness among Spanish officials about the dangers of corruption and stress the need to remain vigilant, in particular in vulnerable sectors, and report existing signs of corrupt practices to the authorities in charge of detecting, investigating and prosecuting corruption offences.*
18. GRECO recalls that the RC-report concluded that the issue of specific reporting practices in sectors at risk could be paid further attention, in particular in the light of the findings of research and analyses to be produced according to recommendation i.
19. The authorities of Spain have indicated that training on corruption and public ethics is provided at both the entry-level and throughout the administrative career of civil servants. Moreover, targeted training takes place for those officials whose position is particularly vulnerable to acts of corruption.
20. GRECO is of the opinion that a training system for public officials on public ethics is in place; however, no concrete measures in the specific sense to raise public officials' awareness about the need to *report existing signs of corrupt practices to the authorities in charge of detecting, investigating and prosecuting corruption offences*, have been reported.
21. Based on the information at its disposal, GRECO concludes that recommendation vii has been partly implemented.

III. CONCLUSION

22. In addition to the conclusions contained in the First Round Compliance Report on Spain and in view of the above, GRECO concludes that Spain has implemented satisfactorily, or dealt with in a satisfactory manner, recommendations iii and iv. Recommendations i and vii have been partly implemented. In this connection, GRECO encourages Spain to enhance its efforts to carry out research and analysis on the phenomenon of corruption and to ensure that particular attention is paid in this context to specific reporting practices in sectors at risk. It also invites Spain to pursue the envisaged amendment of the Organic Statute of the State Attorney General's Office aiming at increasing independence of the State Attorney General with respect to the Government.
23. The adoption of the present Addendum to the Compliance Report terminates the First Evaluation Round compliance procedure in respect of Spain.