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First Evaluation Round

Compliance Report on Sweden

Adopted by GRECO
at its 17th Plenary Meeting
(Strasbourg, 22-25 March 2004)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Sweden at its 5th Plenary Meeting (11-15 June 2001). This Report (Greco Eval I Rep (2001) 3E) was made public by GRECO, following authorisation by the authorities of Sweden on 15 June 2001.
2. At its 13th Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Belgium and Slovakia to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Claire HUBERTS on behalf of Belgium and Ms Zuzana STOFOVA on behalf of Slovakia. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
3. The authorities of Sweden submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 10 June 2003, a first revised version on 3 October 2003 and a second on 2 February 2004. At the request of the authorities of Sweden, a preparatory meeting was held on 18 March 2004 between Representatives of Sweden, the Rapporteurs and the Secretariat.
4. The RC-Report was adopted by GRECO, following examination and debate pursuant to Rule 31.7 of the Rules of Procedure, at its 17th Plenary Meeting (22-25 March 2004).
5. Under Article 15 para. 6 of the GRECO Statute and Rule 30.2 of the Rules of Procedure, the objective of the RC-Report is to assess the measures taken by the authorities of Sweden and, wherever possible, their effectiveness in order to comply with the recommendations contained in the Evaluation Report.

II. ANALYSIS

6. It was recalled that GRECO in its Evaluation Report addressed 8 recommendations to Sweden. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to raise the awareness of public officials, particularly those more likely to be in contact with corrupt practices, about the need to remain vigilant, to report suspicions of corruption in accordance with agreed procedures and to contribute to the efforts of law enforcement authorities aimed at the detection of corruption offences.*
8. The authorities of Sweden have referred to the paramount importance Sweden gives to transparency of public officials' activities, in particular, as staff policy matters are to a large extent delegated to various government agencies (statliga verk). Each head of agency is responsible, according to law, for the policy, education and training, etc. of his/her staff. The role of the Government is merely to define the objectives of the various agencies and, to follow-up their implementation. The execution of the policies remains with the various agencies.
9. Moreover, the Swedish authorities have replied that they think it is vital to strengthen the consciousness of the role of public servants, their ethics and good behaviour in order to fight corruption. The Swedish Government stated – as early as 1998 - in its Bill "Public administration in service of the citizen" (1997/1998:136):

"Public administration needs servants with good knowledge of administration, integrity, sound judgement and an ethic attitude that excites respect. The confidence of the public for the administration is an important question of democracy. The Government expects therefore that every authority makes sure that their introduction education and internal education give the employees a basic knowledge of administration. The purpose should be i.a. to increase the awareness of the specific role of the public servant and his or her great importance for modern society. The head of the authority should take a special responsibility for this."

10. In 1999, the National Council for Quality and Development (Statens kvalitets- och kompetensråd, hereafter KKR) was established in order to support the various state agencies (referred to above). KKR has the overall objective (as a government tool) to actively influence and develop public administration in strategically important areas, to support and stimulate the central agencies' need for long term and systematic quality development and skills provision. These objectives are fulfilled through the offering of education, training, expertise, seminars and projects which are developed in close co-operation with the respective agencies. The KKR is furthermore in a position to give advice and to educate civil servants as a preventive measure against corruption. KKR works on "total quality management" (TQM) and, to ensure that the current public administration basically has a "common code of ethics". It may also promote research on TQM at universities, etc. The KKR courses are comprehensive and open to any public agency.
11. The Swedish authorities have furthermore referred to the establishment of a Government Commission on Ethics ("Förtroendekommissionen") in the private (industry) sector – *inter alia* charged with the task of making a survey of conduct which damages the public's confidence in that sector - the conclusions of which will be of interest also to the public sector.
12. The Swedish authorities have also reported that steps have been taken in order to further increase the transparency and awareness of corruption relating to the official arms trade. A Project, "Corruption in the Official Arms Trade (COAT)", was established in 1999 and work has been carried out continuously since then. This Project is a joint venture between Transparency International and the Division for Strategic Export Control at the Swedish Foreign Ministry. Three major meetings have been held, in February 2000 (Stockholm), in April 2001 (Cambridge) and in March 2002 (Stockholm). Four different groups of participants; industry, military, state and academia have in a joint forum discussed aspects of corruption in the official arms trade and what could be done to curb it. A list of priorities has been established and its implementation is underway. COAT is preparing recommendations for codes of best practice. The recommendations include i.a. methods for making a specific person responsible for the bidding. They also contain so called "integrity pacts", according to which the buyer and the seller of arms agree that no bribe shall be paid or demanded in order to close a deal. The work on the recommendations has not yet been completed.
13. GRECO took note of the information provided by the Swedish authorities. It was of the opinion that Sweden has a good system for educating and training public officials and the KKR appeared to be a very useful channel for implementing broader projects, such as awareness raising concerning corruption. Moreover, it took note of the particular project limited to the arms trade. However, no concrete measures in the specific sense to raise public officials' awareness *about the need to remain vigilant, to report suspicions of corruption in accordance with agreed procedures and to contribute to the efforts of law enforcement authorities aimed at the detection of corruption*, have been reported. For that reason GRECO could not conclude that Sweden has complied fully with this recommendation.
14. GRECO concluded that Recommendation i. has been partly implemented.

Recommendation ii.

15. *GRECO recommended to identify in an existing multidisciplinary structure – the Unit for Special Crime, the ECB or other – one or several prosecutors, police officers and other specialised officials who will be responsible for dealing specifically with the detection, investigation and prosecution of serious corruption cases. This structure should also be in a position to exploit available information from different sources that could lead to the detection and gathering of evidence of corruption offences.*
16. The authorities of Sweden have replied that on 16 June 2003 the Prosecutor General gave the Public Prosecution Office in Stockholm a commission to establish the “National anti-corruption unit”. Two senior prosecutors were appointed to work in the new Unit, which became operational on 1 July 2003. The Unit has a nationwide coverage and its prosecutors shall conduct investigations and prosecutions of cases concerning corruption or corruption-related crime on a permanent basis. One of the purposes of the new structure is to create an organisation with high competence on a central level.
17. GRECO concluded that Recommendation ii. has been implemented satisfactorily.

Recommendation iii.

18. *GRECO recommended to organise appropriate training - in particular on the typologies of corruption, including its international dimension - for police officers and prosecutors dealing with corruption and connected offences.*
19. The authorities of Sweden have stated that they agree with GRECO on the importance of educating specialised personnel and that important areas of competence relevant to combating corruption in many ways are the same as those needed in combating other forms of serious crime. They have reported that “central parts” of the relevant police training provided by the Swedish Police Academy include advanced training for interrogators which focus on, for example, interrogation techniques, forensic psychiatry, psychology and cultural competence. Moreover, the Academy also gives courses in advanced criminal investigation procedure, which focus on methods of investigation, behavioural science and jurisprudence and that training is provided in criminal intelligence work, including how to collect, evaluate and analyse intelligence information; how to use advanced databases and international aspects of criminal intelligence. Moreover, the Economic Crimes Bureau (ECB), which is a multidisciplinary agency for prosecutors, police and financial investigators specialised in investigating economic crime, is responsible for special training in its field of competence. The ECB training covers the whole of Sweden. The courses are comprehensive and cover all aspects of economic crime, including corruption.
20. Moreover, the Swedish authorities have stated that the newly established specialised National anti-corruption unit (see under Recommendation ii.), provides expert advice in order to increase its specialised prosecutors’ competence in fighting corruption on national and international levels. They have furthermore argued that the hierarchical system of prosecutors leading the police investigations will provide police officers dealing with corruption cases very good support and appropriate *de facto* training and experience in this respect.
21. GRECO took note of the information provided and concluded that the ECB provides training to both prosecutors and police on the investigation of economic crime, which according to the Swedish authorities also covers aspects of corruption. In addition, the newly established National

Anti-Corruption Unit provides expert advice/training regarding corruption for specialised prosecutors. This unit also provides specialised police with *de facto* experience on investigations of corruption.

22. GRECO concluded that Recommendation iii. has been dealt with in a satisfactory manner.

Recommendation iv.

23. *GRECO recommended to organise a system for exchanging knowledge and experience about corruption phenomena in Sweden, involving the Prosecutor General's Office, the Police, the State Auditor's Office, the auditors of local authorities, public procurement services and tax authorities. Such a system could assist in identifying procedures and activities most vulnerable to corruption, criteria to detect corrupt practices and preventive measures.*
24. The authorities of Sweden have reported that a network at the National anti-corruption Unit of the Office of the Prosecutor General was established in 2002, consisting of prosecutors at the regional public prosecution offices and prosecutors at the Swedish National Economic Crimes Bureau, specially aimed at fighting corruption. The network shall focus on collecting information on corruption. The creation and development of new methods of combating corruption will also be highlighted. The new organisation will eventually possess a high competence at a central level with important means of spreading knowledge and experience to the regional/local level. It will also be a central body for exchanging knowledge and experience concerning corruption with institutions outside the judiciary.
25. GRECO concluded that Recommendation iv. has been implemented satisfactorily.

Recommendation v.

26. *GRECO recommended to extend, as far as possible, the use of special investigative means to cases of aggravated bribery, keeping in mind, the low level of corruption in Sweden and the need to respect the principle of proportionality and existing constitutional and legal safeguards.*
27. The authorities of Sweden have reported that a new law has been adopted by Parliament (entering into force on 1 October 2004) which extends the possibilities for the investigative authorities to use secret wiretapping, secret tele surveillance and secret camera surveillance. This makes it possible to use secret wiretapping and secret camera surveillance as soon as the "penal value" exceeds two years, for instance, in cases concerning aggravated passive bribery.
28. Moreover, it has been reported that the Government has in January 2004 decided to propose more severe punishment also regarding aggravated active bribery to between 6 months and 6 years of imprisonment. The changes are expected to come into force by 1 October 2004.
29. GRECO took note of the information provided and was pleased that the possibilities of using special investigative techniques had been extended by law and that further changes were underway.
30. GRECO concluded that Recommendation v. has been implemented satisfactorily.

Recommendation vi.

31. *GRECO recommended to improve, within the framework of available resources, the functioning of the National Board for Public Procurement enabling it to fulfil its important tasks in a more efficient manner. It also recommended to examine ways of improving the effectiveness of sanctions for non-compliance with applicable public tendering procedures.*
32. The authorities of Sweden have reported that the Government has presented its view on the future role and organisation of the National Board for Public Procurement in Bill 2001/02:142. The Government's view is *inter alia* that the Board shall continue to be responsible for the supervision of public procurement in Sweden and that there shall be possibilities to formally challenge a decision to assign a contractor.
33. The authorities have furthermore reported that the organisation and future role of the Board will be affected by proposals made by an official Expert Report (SOU 1999:139) which was being considered by the Government. In the Report it is, *inter alia*, suggested that a breach of the Public Procurement Act should be sanctioned by a fine (independently of possible criminal fines). Such a fine, would be complementary to the rules on damages.
34. GRECO concluded that Recommendation vi. has been implemented satisfactorily.

Recommendation vii.

35. *GRECO recommended to take measures to minimise the risks of an excessive familiarity between officials and suppliers, leading to direct orders being placed without applying tendering procedures, such as, for instance, collective decision-making procedures, rotation of officials deciding on purchases, specific supervision of contracts concluded directly etc.*
36. The Swedish authorities have replied that close relationships between officials and suppliers in tendering procedures might encourage corruption and that the measures proposed by GRECO could be one way of eliminating that risk. However other means could for example be the long Swedish tradition of transparency.
37. The Swedish authorities have added that in principle all public procurements, whether made by the state or local authorities, are regulated by the Act on Public Procurement and that Sweden has incorporated the EC directives on public procurement into that law. In addition, more detailed rules than provided for in the directives have been incorporated on tendering, such as that the opening of tenders must be carried out in the presence of at least two individuals appointed by the contracting entity, that there shall be a written record of tenders which must be confirmed by those participating in the tender and that a representative of the Chamber of Commerce shall be present should a competitor so request. Moreover, the Act on Public Procurement now contains a rule that award decisions may be subject to review procedure before an administrative court. In order to make this rule efficient, no tender contract may be awarded until a time limit of 10 days has elapsed. The authorities have mentioned that such reviews have increased considerably recently.
38. GRECO took note of the reply provided. It agreed with the Swedish authorities that the measures mentioned in the recommendation are examples which are not exhaustive. It welcomed the improvements reported with regard to the legislation on public procurement and noted that the Swedish authorities had stated that in principle all public procurement situations were covered by

the Act on Public Procurement. In this situation, GRECO was of the opinion that Sweden has presented measures which may reduce the risks mentioned in the recommendation.

39. GRECO concluded that Recommendation vii. has been dealt with in a satisfactory manner.

Recommendation viii.

40. *GRECO recommended to improve the monitoring/supervisory system applicable to local authorities by ensuring efficient and independent auditing of local authorities.*
41. The authorities of Sweden have reported that local governments' independence from the Central Government is regulated in the Constitution. Measures to improve the monitoring system applicable to local authorities (Government Bill 1998/99:66) were issued on 1 January 2000 when the Local Government Act was amended. Since then, all municipal activities shall be audited on a yearly basis. The same law also contains a provision that elected auditors shall be accompanied by expert support in order to obtain a higher degree of professionalism. Every municipal council elects at least three auditors, which are obliged to be accompanied by expert auditors (who are selected from the private sector). The expert auditor carries out the audit, and submits the report to the elected auditor, who makes the final audit. Both the report of the elected and the expert auditor are submitted to the municipal assembly. If irregularities (such as crime) are suspected, the municipal board shall be informed. The authorities of Sweden have emphasised that these reports are open to the public.
42. Moreover, with the intention to follow up the implementation of this legislation, different actions have been taken. In June 2002 the Ministry of Justice arranged a seminar on the monitoring of local authorities. The measures taken in Bill 1998/99:66 as well as the functioning of the present monitoring system were discussed.
43. The authorities have furthermore reported that the above legislation concerning auditing has recently resulted in a larger number of cases where the auditors have not recommended approval of accounts and that media has shown greater interest in these matters.
44. On 16 October 2003, the Swedish Government appointed an expert commission to examine the functioning of the present monitoring system (dir. 2003:97). A general evaluation of the monitoring system made by the Swedish Association of Local Authorities following a questionnaire to all municipalities was available to the Commission. It will present its findings in October 2004. However, there is no intention to further change the auditing system, which the authorities of Sweden consider to be sufficiently independent.
45. GRECO was of the opinion that the efficiency of the system had improved with yearly audits and that the introduction of expert support to the elected auditors benefited the efficiency of the system and also the independence of the auditing. GRECO noted that these changes were in place well before the adoption of the Evaluation Report, but no reference was made to them in the Report. In these circumstances, GRECO did not deem it necessary to pursue this issue.
46. GRECO concluded that Recommendation viii. has been dealt with in a satisfactory manner.

III. CONCLUSIONS

47. GRECO concluded that Sweden has implemented a great majority of the recommendations.

48. Recommendations ii., iv., v. and vi. have been implemented satisfactorily. Recommendations iii., vii. and viii. have been dealt with in a satisfactory manner. Recommendation i. has been partly implemented.
49. GRECO invites the Head of the delegation of Sweden to provide additional information by 31 October 2005 on the progress of the implementation of Recommendation i.