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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Sweden

Adopted by GRECO
at its 43rd Plenary Meeting
(Strasbourg, 29 June – 2 July 2009)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Sweden at its 22nd Plenary Meeting (18 March 2005). This report (Greco Eval II Rep (2004) 9E) was made public by GRECO, following authorisation by the authorities of Sweden, on 12 April 2005.
2. Sweden submitted the Situation Report required under the GRECO compliance procedure on 22 December 2006 and 19 February 2007. On the basis of this information, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC Report) on Sweden at its 33rd Plenary Meeting (1 June 2007). This last report was made public on 7 June 2007. The Compliance Report (Greco RC-II (2007) 1E) concluded that recommendations i, ii, iii and v had been implemented satisfactorily. Recommendation iv had not been implemented; GRECO requested additional information on its implementation. This information was provided on 18 February 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 recommendation iv in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation iv.

4. *GRECO recommended to introduce clear rules/guidelines for situations where civil servants move to the private sector, in order to avoid situations of conflicting interests.*
5. GRECO recalls that in the Situation Report the Swedish authorities stressed the importance they pay to favouring a flexible labour market, *inter alia*, facilitating for employees to move freely from the public to the private sector and vice versa, which has a long tradition in Sweden. It was also reported that no regulations, in addition to the existing ones on secrecy and side employment in respect of public officials, were planned. Concluding that recommendation iv had not been implemented, GRECO pointed at the possibilities of establishing tailor made rules or guidelines which would not necessarily take the form of a general "quarantine", but could concern public officials in certain positions or regulating particular situations.
6. The Swedish authorities now report that for the time being Sweden is not preparing a general "revolving doors – *pantouflage*" regulation. A broad discussion on the topic will, however, be held in 2010 and 2011 and it is possible that this work will lead to some proposals in the years to come. In 2009, Sweden will start preparing the project within the government sector under the heading "A public ethos", aiming at ensuring a discussion regarding basic values and conducts among the employees of the various agencies within the administration. "Revolving doors – *pantouflage*" is one of the topics of this programme.
7. The authorities furthermore stress that it is considered important in Sweden - both in the private and the public sector - with experience from different working areas and that free entrance to different professions, is a basic principle for this to be achieved. The current legislation that protects public interests when employees move from the public to the private sector are the Secrecy Act (1980:100), the Secrecy Regulation (1980:657) and the Act on the Protection of Trade Secrets (1990:409). The latter Act contains rules about professional secrecy which apply in regard to the private and the public sector. Furthermore there are rules in the Secrecy Act

- (chapter 6, section 1) to prohibit an employee from disclosing or using secret information. These rules, the violation of which can attract criminal sanctions, apply also after a public official has moved to the private sector. Moreover, there are special rules for employees in the Bank of Sweden, who may be subject to a year-long "quarantine" when leaving the Bank.
8. The authorities reiterate their position that currently there is no intention to establish general "quarantine" rules and that a system of rules of exclusion from certain private sector professions for public officials is not deemed desirable in Sweden. In this context the authorities stress that Sweden does not have a "civil servant system"; persons employed within the government sector are employed by a specific agency and not by the government as such. It is therefore each employing agency that is responsible for using the tools provided to it through the delegated employer policy, for example, to establish rules regarding notice time before a member of the staff leaves the agency. However, obviously such regulations may not interfere with laws or collective agreements of the labour market.
 9. GRECO takes note of the position of the Swedish authorities, which remains the same as at the time of the adoption of the Compliance Report. GRECO is not in a position to tell individual countries how to implement recommendations. However, it may be of some assistance to the Swedish authorities that the implementation of recommendation iv need not necessarily imply a general quarantine regulation, which indeed may have far reaching consequences. GRECO recalls from several of its Second Round Reports (evaluation and compliance reports) as well as from a general discussion (*tour de table*)¹ held by GRECO Plenary in 2007 on this subject matter that tailoring a regulatory system to the legal framework presents significant challenges in various GRECO member States, and there is no "best model" available. There appear, however, to be some common considerations in the development or enhancement of any such system. In addition to the fundamental goal of promoting public trust, the most common goals of a system to address the movement of public officials from public service to the private sector seems to be (1) ensuring that specific information gained while in public service is not misused (2) ensuring that the exercise of authority by a public official is not influenced by personal gain, and (3) ensuring that the access and contacts of current as well as former public officials are not used for the unwarranted benefits of the officials or of others. Moreover, it appears to be common understanding that almost any individual who carries out a public function, whether employed or elected, needs to be accountable to some standards designed to help meeting these goals. It may also be concluded that in general, there are three main approaches in GRECO member states to address post-service activities: (1) prohibitions on employment, either general or for narrowly defined groups; (2) restrictions on representations of private entities by former public officials back to public entities (representational bars); and (3) prior approval of and/or reporting of intended or current post-service activities.
 10. GRECO notes with interest that Sweden will address ethical matters in the public sector and that conflicting interests, including in connection with the issue of "revolving doors – *pantouflage*" will be further discussed within the framework of a broader initiative ("A *public ethos*"). GRECO encourages Sweden to pursue this issue further with a view to introducing clear rules/guidelines as required by recommendation iv.
 11. GRECO concludes that recommendation iv remains not implemented.

¹ "Revolving doors / *pantouflage*", pages 10-14 of GRECO's Eighth General Activity Report (2007), adopted at its 36th Plenary Meeting (Strasbourg, 11-15 February 2008).

III. CONCLUSION

12. In addition to the findings contained in the Second Round Compliance Report on Sweden and in view of the above, GRECO concludes that recommendation iv remains not implemented.
13. With the adoption of this Addendum to the Compliance Report, GRECO concludes that out of the five recommendations addressed to Sweden, in total four have been implemented satisfactorily. As regards recommendation iv, which remains not implemented, GRECO welcomes the information that action in the area of conflicting interests in respect of public officials moving to the private sector is foreseen within the government sector programme, "A public ethos" (2010 and 2011). GRECO urges the authorities to pursue this matter, with a view to introducing clear rules/guidelines for situations where civil servants move to the private sector, which appears to be particularly important in countries, like Sweden, where mobility between the public and the private sectors is encouraged.
14. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Sweden. The authorities of Sweden may, however, wish to inform GRECO of further developments with regard to the implementation of recommendation iv.
15. Finally, GRECO invites the Swedish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make this report public.