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## **Second Evaluation Round**

### **Compliance Report on the United Kingdom**

Adopted by GRECO  
at its 30<sup>th</sup> Plenary Meeting  
(Strasbourg, 9-13 October 2006)

## I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on the United Kingdom at its 20<sup>th</sup> Plenary Meeting (27-30 September 2004). This report (Greco Eval II Rep (2004) 2E) was made public by GRECO, following authorisation by the authorities of the United Kingdom, on 24 November 2004.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of the United Kingdom submitted their Situation Report (RS-report) on the measures taken to implement the recommendations on 31 March 2006.
3. At its 26<sup>th</sup> Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Estonia and Malta to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Mari-Liis LIIV on behalf of Estonia and Mr Silvio CAMILLERI on behalf of Malta. 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 the United Kingdom, to comply with the recommendations contained in the Evaluation Report.

## II. ANALYSIS

5. It was recalled that GRECO in its evaluation report addressed 7 recommendations to the United Kingdom. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended to take measures to encourage the wider use of confiscation and civil recovery schemes under the Proceeds of Crime Act (POCA), for instance by reducing the financial thresholds for these schemes .*
7. The authorities of the United Kingdom report that routine use of confiscation is encouraged in all criminal investigations, however, greater emphasis is being placed on the use of confiscation, which will affect corruption cases. In 2006/2007 the new Serious Organised Crime Agency (SOCA) will take responsibility for enforcing 350 existing confiscation orders. The National Policing Plan (2005-2008) includes an expectation that the Police should seek the recovery of assets in all relevant cases brought before the courts where there is evidence that the proceeds of crime have financed the acquisition of assets. Moreover, various initiatives to encourage the use of confiscation have been reported: The Home Office funds 88 additional financial investigators until March 2007 who are able to conduct investigations for confiscation purposes; There are 5 multi-agency Regional Asset Recovery Teams – a free resource – which investigate, inter alia, whether and to what extent a person has benefited from a crime; Two Crown Prosecutor “champions” in each prosecutorial district act as experts on confiscation and there is an expert at chief police rank for asset recovery in each of the 43 regional police services; A high level inter-departmental and agency working group (founded in 2002) exists to ensure that asset recovery becomes a higher priority and is used to a greater extent. The authorities also report that a new initiative to include financial investigation in police training is under consideration and that there is no monetary threshold attached to the confiscation regime.
8. The authorities further report that if confiscation is impossible or fails, there is a strict referral process to the Asset Recovery Agency (ARA) for a possible civil recovery or taxation action.

Consideration is being given to increasing referrals from law enforcement to ARA. Moreover, one of SOCA's first actions will be to provide ARA with a large number of cases for civil recovery. However, the monetary threshold in civil recovery (currently £10.000) has provided an additional assurance and safeguard that the scheme and the use of it is proportionate and linked with serious crime in order to provide that civil recovery concentrates on cases where the largest sums of money are involved. The authorities also state that given the cost of recovery proceedings, it is likely that there will be a concentration on high value proceedings. The threshold helps to ensure that civil recovery proceedings are not to be used in minor or trivial cases.

9. GRECO takes note of the information provided and is of the opinion that the wider use of confiscation and civil recovery is broadly encouraged in the United Kingdom, in particular, in respect of offences, involving high monetary values. As there is no monetary threshold in criminal confiscation, it is under the discretionary powers of the prosecutor whether to use confiscation or not regardless of the value of the proceeds. However, civil recovery is still excluded in cases concerning values below £10.000. GRECO understands the reasons behind such a policy, but regrets that the general threshold for using civil recovery will exclude this efficient measure from being applied in cases of corruption which may have very serious effects despite the fact that, for example, the bribe involved was less than £10.000. No measures aiming at making civil recovery available in such situations have been reported.
10. GRECO concludes that recommendation i has been partly implemented.

**Recommendation ii.**

11. *GRECO recommended to make wider use of measures which would ensure that the value of property representing the proceeds of crime is conserved at an early stage in order to satisfy a subsequent confiscation order.*
12. The authorities of the United Kingdom report that the confiscation regime allows for the appointment of an independent receiver to manage property and businesses in anticipation of a confiscation order. This ability empowers the courts to preserve the value of restrained assets. Furthermore the legislation explicitly requires the courts and the receivers to exercise their powers with a view to maintaining the value of the amount available for confiscation.
13. The authorities further report that law enforcement bodies are aware of the powers to use interim measures and their benefit and improved knowledge through training and experience of the various freezing provisions will lead to wider use of all such measures. Experts within both the prosecution service and the police (as mentioned under recommendation i) have had an important role to play in this respect. Moreover, the annual target for restraint orders for 2005/2006 has already been exceeded, which is an indication that the measures are being used effectively.
14. GRECO takes note of the information provided and welcomes the progress reported on the wider use of interim measures in general. The specific powers to appoint an independent receiver to manage restrained property - as was noted in the Evaluation Report (Greco Eval II Rep (2004) 2E, paragraph 21) and consequently known to GRECO at the adoption of this recommendation - is an extraordinary measures for specific situations where the value of the seized object justifies the costs for appointing an independent receiver. It follows that this measure is not often used with regard to low value objects, even if their value is diminishing. This situation could possibly be improved with regard to corruption offences. Nevertheless, GRECO is pleased that the increased

use of interim measures makes the confiscation and recovery regimes in the United Kingdom effective tools in the fight against economic crime. Consequently, the overall objective of this recommendation has been met.

15. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

**Recommendation iii.**

16. *GRECO recommended to consider enhancing the National Criminal Intelligence Service's (NCIS) communication with, and feed back to, the providers of suspicious transaction reports.*
17. The authorities of the United Kingdom report that an ongoing engagement between Government, Law Enforcement Agencies (LEA) and the private sector on the effectiveness of the Suspicious Activity Report (SAR) regime is taking place through a Home Office-chaired working party; which is a sub-group to the Money Laundering Advisory Committee. On 1 April 2006 the National Criminal Intelligence Service (NCIS) became part of the Serious Organised Crime Agency (SOCA). SOCA is engaging with the other stakeholders in the SARs regime to help improve all participants' contributions to the process. To achieve this, SOCA is managing its relationship with its stakeholders, devoting to it the resources and skills (including those with specialist knowledge and experience of the individual working of different reporting sectors and LEAs), and making efforts to understand others' perspectives. Following a review of the suspicious activity reports regime SOCA has also the overall responsibility for the functioning of the reporting system. SOCA is currently seeking to implement 24 recommendations arising from the review to improve the system, primarily focusing on the role of SOCA as the regime's Financial Intelligence Unit (FIU). These recommendations include improving the IT infrastructure, the training and guidance provided by the FIU and facilitating better dialogue between the regime's participants. For the reporting sectors, SOCA will deliver improved mechanisms for dialogue and timely feedback as well as summary feedback based on analysis of SOCA's own activity.
18. GRECO welcomes the practical achievements reported, which even exceed the requirements of the recommendation and concludes that recommendation iii has been implemented satisfactorily.

**Recommendation iv.**

19. *GRECO recommended to keep anti-corruption standards and their implementation under review, taking into account, in particular, new emerging threats to the integrity of public administrations as well as developments in related policy areas.*
20. The authorities of the United Kingdom report that anti-corruption standards and their implementation are kept under review on an ongoing basis both by Government and independent bodies such as the House of Commons Public Administration Select Committee and the Committee on Standards in Public Life. The Public Administration Select Committee is currently inquiring into the role of "ethical regulators" particularly those which have been established through ministerial powers, with a view to considering whether improvements can be made to the existing arrangements. The inquiry will analyse issues such as the accountability and independence of the ethics and standards watchdogs. The Committee will also consider approaches adopted in other countries, and whether there is a need for greater rationalisation and consolidation.

21. GRECO takes note of the information provided. It is confident that anti-corruption standards are constantly under review by various bodies concerned. However, during the evaluation GRECO noted that in the rather complex and decentralised public administration of the United Kingdom corruption prevention was mainly addressed at departmental level, although common approaches were required (Greco Eval II Rep (2004) 2E, paragraph 75). GRECO is therefore pleased to learn that a Parliamentary Committee is looking at the role and effectiveness of the independent regulators.
22. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

#### **Recommendation v.**

23. *GRECO recommended to enhance, through in-service training programmes at regular intervals, awareness among public officials concerning corruption prevention and their obligations to report corruption.*
24. The authorities of the United Kingdom report that the Civil Service Code is covered in departmental training programmes. A new Civil Service Code was published on 6 June 2006. The new Code makes clear that evidence of criminal or unlawful activity should be reported to the police or other appropriate authorities, references the whistle-blowing legislation, the Public Interest Disclosure Act, and refers to more detailed guidance in the Directory of Civil Service Guidance. There is also guidance in the Civil Service Management Code, which will be amended in due course to make clear staff's obligations in terms of reporting evidence of corruption and the appropriate bodies staff should report to. The next stage is to promote awareness of the new Code, which will include, *inter alia*, the obligations to report suspected corruption. Moreover, the Committee on Standards in Public Life considered the issue of whistle-blowing procedures in the public sector in their Tenth Report (January 2005) and recommended that leaders of public bodies commit to the effective implementation of the Public Interest Disclosure Act 1998 and that organisations should ensure that staff are aware of the principles and provisions of that Act. The Government Response to the Tenth Report (December 2005) confirmed that *"the Government agrees on the importance of ensuring that staff are aware of and trust the whistle-blowing process, and on the need for the boards of public bodies to demonstrate leadership on this issue. It also agrees on the need for regular communication to staff about the avenues open to them to raise issues of concern. There is some guidance on raising issues of concern for staff of public bodies but the Government accepts that it would benefit from some updating. It will therefore revise and reissue the Cabinet Office guidance for NDPB [Non-Departmental Public Bodies] staff and board members making clear the requirement for effective and clear procedures for raising issues of concern, as well as the requirements of the Public Interest Disclosure Act 1998."*
25. GRECO welcomes the progress reported with regard to staff regulations and the ongoing amendments with regard to staff's obligations to report cases of suspected corruption. As has been stated by GRECO on several occasions, such rules should preferably be accompanied by training and it was pleased to learn that the legal reforms will be followed up by awareness programmes. GRECO recalled that the institutionalised induction training referred to in the Evaluation Report (Greco Eval II Rep (2004)2E, paragraph 76) was not considered sufficient and that it recommended that in-service training programmes be held at regular intervals. GRECO would welcome information on progress in this respect as well as with regard to the follow-up to the commitments on whistle blowing made by the Government in response to the Committee on Standards in Public Life.

26. GRECO concludes that recommendation v has been partly implemented.

**Recommendation vi.**

27. *GRECO recommended to pursue the discussion concerning the status and functions of special advisers at the Ministries as part of the consultation process on the forthcoming Civil Service Bill.*
28. The authorities of the United Kingdom report that an updated Model Contract for Special Advisers and Code of Conduct for Special Advisers were published in July 2005. The new version takes account of recommendations by the Committee on Standards in Public Life and the Public Administration Select Committee, and, for example, clarifies special advisers' relationships with permanent civil servants, making clear what they can and cannot do. The Code also makes clear that special advisers must respect the impartiality of the Civil Service. The new Civil Service Code also contains references and a link to the Code of Conduct for Special Advisers.
29. GRECO takes note of the information provided by the authorities of the United Kingdom and concludes that recommendation vi has been implemented satisfactorily.

**Recommendation vii.**

30. *GRECO recommended to make statistics available on the use of corporate sanctions.*
31. The authorities of the United Kingdom report that the 2000-2004 statistics show that there were no records of any companies being convicted of corruption-related offences<sup>1</sup>. Statistics for 2005 were not yet available.
32. GRECO recalls that the reason for the present recommendation was to establish to what extent sanctions as applied in corruption cases against legal persons were effective, proportionate and dissuasive. The information provided indicates that no legal person in the United Kingdom has been convicted for any corruption offence in the years 2000-2004 and that statistics for 2005 onwards are not yet available. GRECO finds that at present no conclusion can be drawn as to the implementation of the sanctions provided for in law. The authorities may, however, wish to provide GRECO with more recent statistics when these are available.
33. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

**III. CONCLUSIONS**

34. **In view of the above, GRECO concludes that the United Kingdom has implemented satisfactorily or dealt with in a satisfactory manner a majority of the recommendations.** Recommendations iii and vi have been implemented satisfactorily, recommendations ii, iv and vii have been dealt with in a satisfactory manner and recommendations i and v have been partly implemented.
35. GRECO invites the Head of the United Kingdom delegation to submit additional information regarding the implementation of recommendations i and v by 31 May 2008.

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<sup>1</sup> Corruption-related offences include the common law bribery, section 1 of the Public Bodies Corrupt Practices Act 1889, section 1 of the Prevention of Corruption Act 1906, section 17 of the Theft Act 1968, sections 222, 223 and 450 of the Companies Act 1985 and sections 206-212 of the Insolvency Act 1986.