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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Slovak Republic

Adopted by GRECO
at its 38th Plenary Meeting
(Strasbourg, 9-13 June 2008)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on the Slovak Republic at its 17th Plenary Meeting (25 March 2004). This report (Greco Eval II Rep (2003) 2E), which contains 17 recommendations addressed to the Slovak Republic, was made public on 1 April 2004.
2. The Slovak Republic submitted the Situation Report required under the GRECO compliance procedure on 28 March 2006. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC-Report) on the Slovak Republic at its 28th Plenary Meeting (12 May 2006). This last report was made public on 29 May 2006. The Compliance Report (Greco RC-II (2006) 6E) concluded that recommendations viii and xii had been implemented satisfactorily and recommendations ii, iii, iv, v, ix and xv had been dealt with in a satisfactory manner. Recommendations i, vi, vii, x, xiv, xvi and xvii had been partly implemented and recommendations xi and xiii had not been implemented; GRECO requested additional information on their implementation. This information was provided on 30 November 2007.
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 recommendations i, vi, vii, x, xi, xiii, xiv, xvi and xvii in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to develop guidelines and to provide appropriate training for the police, the investigators and the prosecutors on how to go about tracking down offenders' assets, as well as with a view to make full use of all means available aiming at identifying, seizing and freezing proceeds of corruption.*
5. GRECO recalls that it welcomed the adoption of a new Criminal Code and Code of Criminal Procedure and the training, which had been provided on these new provisions to prosecutors, police and judges, and took note of the information that the Financial Police would carry out most financial investigations (both of financial crimes and possible proceeds of crime). However, it considered that without further information it could not conclude that this had made the need for further practical assistance in the form of guidelines and training redundant and therefore considered that this recommendation had been partly implemented.
6. The Slovak authorities, in the additional information submitted for the present Addendum, state that a Twinning Light Project (SK/05/IB/OT/01/TL) is being carried out. This project aims to further strengthen the institutional and administrative capacity to prevent and combat corruption in the Slovak Republic. In the context of this project a set of specific guidelines and model documents for police, prosecutors and judges have been developed, to provide further guidance on their role and responsibilities as well as the relevant procedures to be followed under Slovak legislation (and in accordance with international agreements) related to tracking down offenders' assets and the seizure and forfeiture/confiscation of property. In addition, training in the area of tracing, seizing and forfeiting/confiscating proceeds of crime (including on the application of relevant Slovak legislation and international good practices) has been provided to police officers of the Bureau for the Fight against Corruption, prosecutors of the Special Prosecutor's Office and judges of the Special Court (in total approximately 60 participants), *inter alia* on further improving

existing investigative practices and methods for tracing and identifying proceeds of crime and other property in May 2008.

7. In addition to the abovementioned training activities, a number of other training activities have reportedly taken place since the adoption of the Second Round Compliance Report, including:
 - an international seminar organised by the Police Academy in December 2006 for police officers, prosecutors and representatives of the Ministry of Justice on the topic “Seizure and forfeiture/confiscation of assets from criminal activities”;
 - a training seminar held by the Police Academy in September 2007, in co-operation with the Bureau for the Fight against Corruption, for police officers and prosecutors on the theme “Corruption and Financial Crime”;
 - a TAIEX training seminar organised by DG Enlargement of the European Commission in October 2007 on freezing and forfeiting/confiscating proceeds of crime, in which 60 practitioners participated.
8. Finally, the Slovak authorities emphasise the role the Financial Intelligence Unit (FIU), which is a part of the Financial Police, plays in tracking offenders’ assets in pre-trial proceedings. The internal regulations¹ of the FIU and the relevant legal provisions specify the competences of police officers of the FIU and provide guidance on the way unusual transaction reports and reports on suspicions of purchase of property from illegal assets are to be analysed, evaluated and decided on. Furthermore, police officers of the Slovak FIU are trained on a regular basis on new developments in the area of identifying, seizing and freezing proceeds of crime, money laundering and financing of terrorism, *inter alia* in the context of events organised by foreign FIUs and in the context of activities of Europol, the Camden Assets Recovery Inter-Agency Network (CARIN), the European Anti-Fraud Office (OLAF) and the European Police College (CEPOL).
9. GRECO welcomes the various training activities on tracking defendants’ assets, which have taken place, as well as the elaboration of guidelines on this topic. GRECO hopes that the training provided and guidelines elaborated ensure that the means available for identifying, seizing and freezing the proceeds of corruption are used to the fullest extent possible.
10. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation vi.

11. *GRECO recommended that the Slovak authorities establish an objective definition of “unusual business activities” for banks and other reporting entities to ensure that all questionable financial transactions come to the attention of the Financial Police.*
12. GRECO recalls that it took note of the argument of the Slovak authorities that to provide for a more specific definition of ‘unusual business activities’ would limit possibilities to report questionable financial operations, educate criminals on what is being reported (allowing them to find loopholes in the law and thus necessitating frequent amendments to the law), and that this recommendation was therefore being implemented through training of compliance officers of reporting entities and by having the Financial Intelligence Unit (FIU) provide instructions to these reporting entities on what is to be considered as an unusual business activity. GRECO however found that without further information on the frequency and type of training provided, as well as

¹ These internal regulations include Directions No. 2/2006 (on processing unusual transaction reports), and No. 1/2006 (on control of reporting entities) of the Director of the Bureau for Combating Organised Crime of the Presidium of the Police Force.

the nature (binding or non-binding) of instructions of the FIU it could only conclude that this recommendation had been partly implemented.

13. The Slovak authorities report that a new Act on Money Laundering and Terrorism Financing is currently being discussed in parliament. This draft law includes a new definition of 'unusual transaction' to replace the definition of 'unusual business activities' laid down in Act No. 367/2000². The new definition of an 'unusual transaction' is based on an analysis of 'unusual business activities' reported under the old law and combines certain risk factors which could indicate the occurrence of money laundering or financing of terrorism offences. At the same time it is said to allow entities to identify unusual transactions without educating criminals on what is being reported.
14. Furthermore, the Slovak authorities report on training³ and the (regular) instructions, in the form of information on trends and typologies of money laundering and financing of terrorism as well as ways in which unusual transactions can and should be identified, provided to reporting entities by the unit of the FIU/Financial Police which supervises the reporting entities, as well as the information placed on the FIU's web-site (which became operational in September 2007).
15. GRECO takes note of the information provided. It welcomes the fact that a new definition of an 'unusual transaction' has been included in the new (draft) law on money laundering and financing of terrorism – which appears to provide for more objective and clearer criteria of the type of transactions to be reported to the FIU – and the training and instructions provided to reporting entities. However, as the draft law on money laundering and financing of terrorism has not entered into force and an objective definition of an 'unusual transaction' has thus not yet been established, GRECO cannot yet conclude that this recommendation has been fully complied with.
16. GRECO concludes that recommendation vi has been partly implemented.

² Under Act No 367/2000 an 'unusual business activity' is defined as a "legal action or other action which suggests that its execution may enable legalisation or financing of terrorism". Under the draft law an "unusual transaction" has been defined as "a business operation :

- a) which, with regard to its complexity, unusually large volume of funds or other nature, apparently deviates from usual and standard scope or nature of a certain type of business or business of a certain customer;
- b) which, with regard to its complexity, unusually large volume of funds or other nature has no apparent economic purpose or visible lawful purpose;
- c) regarding which a customer is reluctant to identify or provide data needed for the reporting entity to apply customer due diligence under paragraph 10 - 12;
- d) regarding which a customer is reluctant to provide the information about business being prepared or tries to provide a minimum amount of information or provides information difficult or expensive to verify by the reporting entity;
- e) regarding which a customer asks for its execution on the basis of a project that raises doubts;
- f) regarding which funds of small denomination are used in unreasonable large volume;
- g) with a customer where it is expected that in regard to his employment, position or other characteristics, is not or cannot be an owner of funds needed;
- h) regarding which the volume of funds that a customer disposes of, is in apparent disproportion to nature or scope of business activities or to his/her declared financial status;
- i) regarding which there is a reasonable assumption that a customer or a beneficiary owner is a person against who international sanctions according to a special regulation are executed or a person who may be in relation to a person against who international sanctions according to a special regulation are executed;
- j) regarding which there is a reasonable assumption that its subject matter is or is to be a thing or a service which may be related to a thing or a service against which international sanctions are executed according to a special regulation; or
- k) regarding which a customer is a person from third countries which do not exercise measures in the field of prevention and disclosure of money laundering and financing of terrorism equivalent to measures established by this Act."

³The Slovak authorities indicate that this training is provided primarily to professional associations (i.e. the National Bank, the Association of Insurance Companies, the Slovak Chamber of Auditors etc.), which in turn are expected to train their members.

Recommendation vii.

17. *GRECO recommended to pursue the legislative programme with regard to the organisation, functioning and decision-making processes in all branches of the public administration in a manner consistent with the relevant international instruments on corruption, that takes into account the need to prevent and combat corruption and subsequently to develop a system of assessment of its effectiveness.*
18. GRECO recalls that this recommendation referred to the adoption of various new laws and amendments to existing laws which were still under preparation at the time of the adoption of the Second Round Evaluation Report. As no information had been provided, neither on laws other than the draft Code of Ethics, the Act to the Supreme Audit Office and a draft law on conflicts of interest, nor on the development of a system or tool to assess the effectiveness of the legislative programme in preventing and combating corruption, GRECO concluded that this recommendation had been partly implemented.
19. The Slovak authorities now report that the Law on Conflicts of Interest⁴ entered into force in October 2004 and was subsequently amended by Constitutional Law No. 545/2005 Coll., which entered into force in January 2006. Both this law, to which the Evaluation Report referred, and amendments thereto, had thus already entered into force at the time of adoption of the Compliance Report in May 2006. This had erroneously not been reported to GRECO at that time.
20. Furthermore, as already mentioned in the Compliance Report, in January 2006, Constitutional Act No. 463/2005 Coll. entered into force, amending the Constitution to extend the mandate of the Supreme Audit Office to also enable it to audit “the use of property, property rights, financial sources, obligations and claims of so-called local self-government units, legal persons in which the State or local self-government units have invested and legal persons founded by local self-government units”.
21. Moreover, the Slovak authorities stress that the police forces have been reorganised in January 2004. This reorganisation aimed to strengthen and improve the performance of the police, and to this end more specialised units for specific types of criminality were created. Four specialised bureaus now form the backbone of the police forces: the Bureau for Combating Organised Crime, the Justice and Criminal Police Bureau, the Bureau of Border and Immigration Police and the Bureau for the Fight against Corruption.⁵
22. Finally, the Slovak authorities report that the Cadastral Law (Act No. 162/1995 Coll.) was complemented by Amendment Act No. 173/2004 Coll. – which entered into force in April 2004 – introducing a so-called ‘speed-up fee’, which ensures possibilities for access to information and documentation in an easier and faster way and also reduces possibilities of bribes being paid to speed up the process. Further amendments to the Cadastral Law will be adopted in the near future, which should make on-line access to all services of the cadastral office possible.

⁴ The full title of this law is “Constitutional Law No. 545/2005 Coll. of Laws on Protection of Public Interest at Functions of Public Officials’ Performance”.

⁵ Apart from corruption, the Bureau for the Fight against Corruption deals with all ‘malfeasance in office’ offences committed by members of parliament, government, the President, heads of state bodies, judges, prosecutors, the directors of the intelligence service and members of the Board of the National Bank, as well as crimes against property and serious economic crimes.

23. GRECO takes note of the information provided. However, GRECO notes that all the abovementioned laws and amendments thereto had already entered into force, at the time of adoption of either the Evaluation Report or the Compliance Report. Nevertheless, GRECO accepts that almost all components of the legislative programme (with the exception of a law on a code of ethics for all public officials, see under recommendation xi below) as referred to in the Second Round Evaluation Report have now entered into force. However, from the information provided GRECO cannot assess whether a system or tool to assess the effectiveness of (parts of) these laws (in preventing and combating corruption) has ever been developed or whether – in the absence of such a system or tool – an assessment of specific components of these laws has been carried out to see if they have achieved the intended effect from an anti-corruption perspective.
24. GRECO concludes that recommendation vii has been partly implemented.

Recommendation x.

25. *GRECO recommended to strengthen the roles of the Supreme Audit Office and of the Public Defender of Rights in the prevention and combating of corruption. Subsequently, they should increase the awareness among the general public on this.*
26. GRECO recalls that it welcomed the amendments to the Act on the Public Defender of Rights, strengthening the role of the Public Defender of Rights, and the Constitution, which extended the mandate of the Supreme Audit Office (SAO) to also audit so-called self-government units (i.e. municipal and regional bodies). However, as no information had been provided on increasing the awareness among the general public on this it could only conclude that this recommendation had been partly implemented.
27. The Slovak authorities now state that the public awareness of the roles of the Public Defender and the SAO has been raised in various ways. The Public Defender of Rights (Ombudsman) encourages citizens on a regular basis via public media to exercise their rights through his office, *inter alia* as regards unethical or seemingly corrupt behaviour by public officials. Furthermore, in the beginning of each year the Public Defender submits an activity report⁶ to Parliament on respect of the basis rights and freedoms of natural and legal persons by public entities, based on complaints received by the public. This report also contains proposals and recommendations to remedy the shortcomings the Public Defender has come across (under Article 23 of the Act No. 564/2001 Coll. on Public Defender of Rights, as amended in April 2006). The reports are published on the website of the Public Defender of Rights (www.vop.sk).
28. The SAO informs the public quarterly on results of its auditing activities via reports published on its web-site (www.nku.gov.sk). Furthermore, it organises so-called “open door days” for the general public, gives briefings to the press and organises press conferences on a regular basis. Moreover, particular in the area of local/regional self-government (to which the mandate of the SAO was extended with the amendment to the Constitution, as reported in the Compliance Report) detailed information on the findings of the audits carried out in regions and municipalities

⁶ The aim of this report is to draw attention to violations of the basic rights and freedoms of natural and legal persons, as documented by the Public Defender, to analyse complaints received by the Public Defender in order to increase the effectiveness of the protection of basic rights and freedoms of natural and legal persons by public entities, to draw attention to current problems in enforcing laws in the field of protection of basic rights and freedoms, to signal shortcomings in these laws and, more in general, to give a public account of the activities of the Public Defender to enable the assessment of his/work.

is provided by the chair of the SAO to the annual meeting of representatives of these local/regional self-government units. The SAO has also published a special brochure on the most frequent shortcomings, as detected by the SAO in its audits, in the area of local/regional self-government, to prevent these shortcomings taking place.

29. GRECO welcomes that the public is regularly informed on the activities of the Public Defender of Rights (Ombudsman) and the Supreme Audit Office (SAO), which should have enhanced and continue to enhance the public's awareness of the strengthening of their respective roles.
30. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

31. *GRECO recommended to provide all Codes of Ethics with more specific provisions (especially with regard to gifts and revolving doors) and extend their application to cover also public officials in general. Local and regional authorities should also establish Codes of Ethics for all public officials of municipalities and higher territorial units as well as for elected public officials of local self-governments. Subsequently, the Slovak authorities should provide training on ethics and anti-corruption conducts for all public officials.*
32. GRECO recalls the position of the Slovak authorities, according to which (1) codes of ethics would not solve the problem of corruption (also as they would not be binding in the Slovak Republic); (2) the provisions of the Code of Ethics for Civil Servants were satisfactory; (3) the government could not order local and regional authorities to adopt codes of ethics due to their high level of autonomy, and; (4) anti-corruption training had been organised. GRECO pointed out in this connection that codes of ethics can be highly effective in changing the ethical climate in public administration and have a significant educational role. It concluded that recommendation xi had not been implemented as no information had been provided on the more specific provisions (which were planned to be introduced at the time of adoption of the Second Round Evaluation Report) included in the Code of Ethics for Civil Servants, the required extension of the application of a code of ethics to other public officials, and on the training provided. In addition, GRECO urged the Slovak authorities to intensify their efforts to encourage local and regional authorities to adopt such codes.
33. The Slovak authorities now report that the Code of Ethics for Civil Servants is enforceable⁷, as Article 53 of the Law on the Civil Service (Act No. 312/2001 Coll.) stipulates that a civil servant is obliged to observe the Constitution, constitutional laws, laws, the Code of Ethics for Civil Servants and other regulations. If a civil servant breaches the Code of Ethics for Civil Servants disciplinary measures can be taken against him/her by the respective state body, on the basis of the Law on the Civil Service. To enhance compliance and enforcement of the Code of Ethics for Civil Servants, the Law on the Civil Service (Act No. 312/2001) was amended in June 2006, requiring the hierarchical superior of a civil servant to annually appraise the civil servant's observance of the Code of Ethics for Civil Servants.
34. The Slovak authorities however also report that most, if not all, ethical provisions of the Code of Ethics are already included in the Law on the Civil Service (Act No. 312/2001), which provides a higher standard of obligation. Similarly, although no code of ethics has been adopted for public sector employees other than civil servants, Act No. 552/2003 Coll. on Work Done in the Public

⁷ Despite indications to the contrary in the information previously provided by the authorities, GRECO had already stated in the Compliance Report (see footnote 8) that it would seem that this Code of Ethics for Civil Servants was in fact enforceable.

Interest provides for directly enforceable provisions on ethical conduct (the content of which is similar to the provisions of the Code of Ethics for Civil Servants) for all public officials (at state, local and regional level). Act No. 552/2003 Coll. prohibits public officials from:

- misusing official information (also after the public official has left the public service);
- engaging in business (or mediate therein on behalf of others) with public bodies;
- requesting or accepting advantages, and;
- misusing advantages arising from their job or work done in the public interest (also after the public official has left the public service).

In addition, the law obliges public officials in a managerial position to submit a so-called property declaration (asset declaration) by the end of March each year. The binding character and enforceability of Act No. 552/2003 is considered to be more effective than a code of ethics.

35. As regards local/regional self-government units, the Slovak authorities report that various municipalities and administrative bodies at regional level have adopted their codes of ethics, which regulate the conduct of local and/regional officials and in some cases even elected representatives.

36. Finally, the Slovak authorities report that pursuant to Resolution No. 323 of the government of April 2007 a working group of experts has been established to update the National Programme for the Fight against Corruption. In addition to revising the National Programme, one of the priority tasks of this working group is the establishment and introduction of “a system of binding and enforceable compliance with the Code of Ethics for Civil Servants and Public Officials”.

37. GRECO takes note of the information provided. First of all, GRECO reiterates its previous position on the educational value of codes of ethics and their role in changing the ethical climate in public administration. Even if ethical norms are included in a law, it would be preferable to complement these norms by a code of ethics, as such a code can:

- offer practical advice in easily accessible language to readers not necessarily learned or legally trained;
- provide further explanation of the relevant legal provisions, and, in this context, examples of undesirable behaviour (which would normally not be included in the law);
- be tailor-made to specific categories of officials or certain sectors of public administration;
- include further details and specificities, more so than legal provisions;
- be more easily adapted and amended than a legal regulation, if need be.

Regardless of the aforementioned insistence of the Slovak authorities to regulate this by law, fact remains that the current conflicts of interest provisions – both in the Code of Ethics for civil servants and the Law on the Civil Service (Act No. 312/2001) – are not very specific. From the information provided it would seem that the same can be said for the provisions of Act No. 552/2003 Coll. on Work done in the Public Interest. The requirement to provide for more specific provisions (especially with regard to gifts and revolving doors) both as regards civil servants and public officials in general is therefore still valid.

38. Secondly, as regards public officials of municipalities and higher territorial units, as well as elected public officials of local self-governments, GRECO welcomes that an (unspecified) number of these entities have adopted code of ethics. However, from nothing in the information provided would it seem that the Slovak authorities have made any effort to encourage local and regional authorities to do so. Finally, GRECO has not received any further information on the training that was reportedly (i.e. as was reported for the Second Round Compliance Report) provided.

39. In light of the above, GRECO concludes that recommendation xi has not been implemented.

Recommendation xiii.

40. *GRECO recommended that the Slovak authorities establish a system to notify the Registry Court and other relevant authorities whenever a leading person in a corporation has been banned from business activity by a criminal court, and to enable them to implement the ban effectively.*
41. GRECO recalls that it took note of the Slovak authorities' explanation that the recommendation had not been implemented for financial reasons and that they considered the amendment to Section 348 of the Criminal Code, stipulating that non-compliance with any decision by the court is a criminal offence carrying a sentence of up to 2 years' imprisonment, to be sufficient for the time being. As a mechanism to implement the ban on engaging in business activities, which in view of GRECO would not necessarily be costly to establish, was still lacking, GRECO considered this recommendation as not implemented.
42. The Slovak authorities now state that the new Code of Criminal Procedure (Act No. 301/2005 Coll.), which entered into force in January 2006, introduced an obligation upon criminal courts to send a copy of their judgment imposing a ban on engaging in business activities to the Registry Court, the trade register, and – if applicable – the relevant professional chamber/association (Section 436, paragraph 1, sub e of the Code of Criminal Procedure). Furthermore, amendments to the Commercial Code (Act No. 513/1991) and the Law on the Commercial Register (Act No. 530/2003) were proposed, which would *inter alia* require the Registry Court to check whether a leading person of a company is banned by the criminal court from engaging in business activities each time information is entered into the Commercial Register (i.e. also when information in the Register is amended) and not just when an application for a license for a business activity is made or a new company is set up. However, although the law amending the Commercial Code and Law on the Commercial Register was adopted as foreseen and entered into force in January 2008, this particular provision was deleted by parliament on the grounds that it would be an unnecessary administrative burden for the Registry Courts.
43. GRECO takes note of the new information provided. It notes that the amendment to the Code of Criminal Procedure had already entered into force at the time of adoption of the Compliance Report. Nevertheless, GRECO accepts that – despite the previous statement of the Slovak authorities that this recommendation was considered to be too costly to implement – further efforts had already been made to comply with this recommendation and trusts that this has enabled the Registry Courts to enforce the disqualification sanction effectively.
44. GRECO concludes that recommendation xiii has been implemented satisfactorily.

Recommendation xiv.

45. *GRECO recommended that Slovak authorities ensure that existing criminal laws (such as Article 125 of the Criminal Code) are used to the fullest extent possible in connection with false statements in accounting documents and corporate registries. A methodology / guidelines on how to identify corruption should be developed to guide accountants and tax inspectors in detecting disguised bribes and specific anti-corruption training should be provided to them.*
46. GRECO recalls that it considered this recommendation to be partly implemented. It welcomed the amendments on the provisions on accounting offences in the Criminal Code and the training subsequently provided to judges, prosecutors and police on these new provisions, which –

although difficult to assess whether this had ensured use “to the fullest extent possible” – would have least have facilitated the use of these provisions. However, as no information had been provided neither on training of accountants and tax inspectors nor on a methodology or guidelines developed for them, GRECO could not conclude that this recommendation had been fully complied with.

47. The Slovak authorities report that tax inspectors and other relevant officials have been provided with copies of the Slovak translation of the OECD Bribery Awareness Handbook for Tax Examiners. In addition, copies of this handbook have been provided to the Slovak Chamber of Certified Accountants, which is itself responsible for training its members.⁸ Furthermore, two different sets of guidelines, on corruption and the reporting of unusual transactions (money laundering), were elaborated for members of the Slovak Chamber of Auditors and published on the website of the Chamber (www.skau.sk).⁹
48. Moreover, the authorities of the Slovak Republic report on various measures taken by the tax administration to prevent and combat corruption, including internal regulations¹⁰ which stipulate the correct procedures for carrying out of so-called risk activities (i.e. activities which involve a high degree of discretion or subjectivity in the decision-making process) by tax employees and a Corruption Prevention Handbook.
49. As regards training, the Slovak authorities report that issues of relevance to corruption, as well as training on the Criminal Code and Code of Criminal Procedure, are addressed within the framework of the basic tax training programme provided to newly recruited personnel. Managers in the Tax Directorate are provided with complementary training courses and other employees – in particular, tax inspectors, so-called “distrainer officers” (persons responsible for the exaction of tax debts) and “complex tax administrators” (accountants) – are provided with more specialised technical courses, which includes training on ways to detect bribery in tax documents and on corruption in general. Furthermore, there have been specialised courses organised for members of the Slovak Chamber of Auditors, including on money laundering and corruption of foreign officials in June 2007. A further four seminars on preventing money laundering and identifying corruption will take place in 2008, in the framework of the regular educational activities of auditors.
50. Finally, as regards the first part of the recommendation, to illustrate the extent to which existing criminal provisions are used in connection with false statements in accounting documents and with regard to corporate registration, the Slovak authorities report that, in 2006, 90 persons have been investigated, 36 persons have been prosecuted and 7 persons have been convicted under Section 259 of the Criminal Code on distortion of data in financial and commercial records.
51. GRECO takes note of the information provided. As regards a methodology and/or guidelines, GRECO welcomes the provision of the OECD Bribery Awareness Handbook for Tax Examiners in Slovak to tax employees and the Slovak Chamber of Certified Accountants, as well as the guidelines issued by the Slovak Chamber of Auditors to its members. As regards training,

⁸ It should however be noted that the accountancy profession is not regulated and membership of this chamber is not mandatory.

⁹ These guidelines are: VAS 2/2005 “The reporting duty of an auditor on suspicion of corruption, in accordance with the Criminal Code” and ETIKA 2/2006 “The duty of an auditor to report unusual transactions”.

¹⁰ These regulations include the ‘Regulation on unified procedures in connection with a suspicion of abuse of power, obstruction of the fulfilment of tasks and corruption of employees of the tax authorities’, which entered into force in August 2006, the Anti-corruption Programme of the Tax Directorate, which entered into force in January 2007, and the Manual for the Anti-Corruption Programme of the Tax Directorate, which came into force in July 2007.

GRECO commends the Slovak authorities for what appears to be a concerted training and awareness programme on the prevention of corruption within the tax administration. Although in this respect the recommendation refers more specifically to training on external corruption and ways for tax inspectors to detect disguised bribes in tax documents, on which little specific information has been provided, GRECO assumes that this indeed has been included in regular training programmes for tax inspectors and trusts that the training on internal corruption will also have increased the awareness of tax inspectors of external bribery (which has undoubtedly also been furthered by the guidelines issued).

52. GRECO concludes that recommendation xiv has been implemented satisfactorily.

Recommendation xvi.

53. *GRECO recommended that, the law providing for corporate criminal liability be adopted, in accord with Articles 18 and 19 of the Criminal Law Convention on Corruption, and to provide training on the new legislation in order to promote its effective use.*

54. GRECO recalls that Slovak law only recognises administrative liability of legal persons for “unfair competition” (which includes bribery, but not money laundering or trading in influence) and civil liability of legal persons for damage incurred as result of a breach of law. No sanctions can be imposed on legal persons for corruption, money laundering and/or trading in influence other than compensation for damage or lost profits as a result of these offences. In its Second Round Compliance Report GRECO took note of the information provided by the Slovak authorities on, *inter alia*, a draft law providing for corporate criminal liability, which was approved by the government in March 2006. As this draft law had not entered into force yet (and, understandably, training would only be provided once this new legislation would enter into force), GRECO could only conclude that recommendation xvi had been partly implemented.

55. The Slovak authorities report that due to unanticipated early general elections, the (previous) parliament did not discuss the aforementioned draft law on corporate criminal liability during its electoral term. The Minister of Justice has now decided to combine this legislative project with the draft law amending the Criminal Code and Code of Criminal Procedure on various other issues. It is expected that these draft amendments, including the new provisions on corporate criminal liability, will be discussed by parliament in 2008. Once criminal liability of legal persons has been introduced, training will be provided to the relevant practitioners.

56. GRECO takes note of the new information provided. As criminal – or any other type of – liability of legal persons for bribery offences, money laundering and trading in influence has not been introduced and effective, proportionate and dissuasive sanctions on legal persons have not been provided for (and training has – understandably – also not been organised), GRECO cannot conclude that the requirements of Articles 18 and 19 of the Criminal Law Convention on Corruption (ETS 173) have now been met.

57. GRECO concludes that recommendation xvi has been partly implemented.

Recommendation xvii.

58. *GRECO recommended that the Slovak authorities undertake a comprehensive and sustained programme of specialised professional training for judges, prosecutors and police regarding the*

effective and appropriate use of criminal and administrative laws relating to money laundering, accounting offences, and the use of legal persons to shield corrupt activity.

59. GRECO recalls that it considered this recommendation to have been partly implemented. Although the Slovak authorities reported on various training programmes and seminars on the new Criminal Code (Act No. 300/2005 Coll.), the Code of Criminal Procedure (Act No. 301/2005 Coll.), judicial co-operation in criminal matters and the application of EU law, without further information GRECO was not in a position to assess whether this training indeed included all the topics mentioned in the recommendation and would not just be an one-time occurrence (but would be sustained), as required by the recommendation.
60. The Slovak authorities now report that six specialised seminars for 240 participants – judges of the Special Court, prosecutors of the Office of Special Prosecution and police officers of the Bureau for the Fight against Corruption and the Financial Police – were organised by the Judicial Academy within the framework of the project “Continued support for the fight against corruption”, which was financed by the European Commission. In the context of this project, study visits were undertaken to anti-corruption authorities in Europe. In addition, all 240 participants of this project have been trained not just on the new criminal provisions in the Slovak Republic but also on relevant European legislation, as EU Framework Decisions have a significant impact on domestic legislation.
61. Furthermore, in September 2007, the Police Academy, in co-operation with the Bureau for the Fight Against Corruption, organised a training seminar for police officers and prosecutors on the theme “Corruption and Financial Crime”, which included the topic money laundering. This course was carried out under the umbrella of European Police College (CEPOL, Course No. 33/2007).
62. GRECO takes note of the information provided. Although on the basis of this information it is difficult to assess whether a “comprehensive and sustained programme of specialised professional training” of the nature and substance as stipulated by the recommendation has been undertaken, GRECO accepts – on the basis of the current information as well as that provided for the Second Round Compliance Report - that various training activities have been and are being carried out and that, in the context of these training activities on *inter alia* money laundering and corruption, attention is also being given to accounting offences and the use of legal persons to shield corruption.
63. GRECO concludes that recommendation xvii has been dealt with in a satisfactory manner.

III. CONCLUSION

64. In addition to the conclusions contained in the Second Round Compliance Report on the Slovak Republic and in view of the above, GRECO concludes that recommendations i, x and xiv have been implemented satisfactorily and recommendations xiii and xvii have been dealt with in a satisfactory manner. Recommendations vi, vii and xvi remain partly implemented and recommendation xi has not been implemented.
65. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 18 recommendations issued to the Slovak Republic, in total 14 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. As regards the not or partly implemented recommendations, GRECO regrets in particular that liability of legal persons for bribery, money laundering and trading in influence has

still not been introduced and urges the Slovak authorities to vigorously pursue this legislative project. Moreover, it is unfortunate that despite the insistence of the Slovak authorities on the desirability of regulating conflicts of interest and other ethical issues for public officials in a law (rather than in a code of ethics), provisions on this topic remain vague. GRECO therefore strongly urges the Slovak authorities to take further measures to provide for more specific regulations on this topic for all public officials, in particular on gifts and on revolving doors as required by the recommendation, whether this is done in a law or in a code of ethics (preferably both)¹¹. In this context, the Slovak authorities might wish to draw inspiration from the Council of Europe's Recommendation No. R(2000) 10 on codes of conduct for public officials, the model code of conduct which is appended thereto and the explanatory memorandum. The Slovak authorities may also wish to report, in due course, on further progress in respect of the outstanding recommendations.

66. The adoption of this Addendum to the Compliance Report concludes the Second Evaluation Round compliance procedure concerning the Slovak Republic.
67. Finally, GRECO invites the Slovak authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.

¹¹ As indicated in paragraph 38 above, GRECO remains of the strong opinion that it would be useful to complement any conflicts of interest provision in the law by a code of ethics.