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First Evaluation Round

Compliance Report on Slovenia

Adopted by GRECO
at its 13th Plenary Meeting
(Strasbourg, 24-28 March 2003)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Slovenia at its 4th Plenary Meeting (12-15 December 2000). This Report (Greco Eval I Rep (2000) 3E) was made public by GRECO, following authorisation by the Slovenian authorities on 15 March 2001.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the Slovenian authorities submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 27 December 2001 and an updated version on 17 January 2003.
3. At its 12th Plenary Meeting (9-13 December 2002), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Romania and the United Kingdom to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Tudorel STEFAN on behalf of Romania and Mr Paul STEPHENSON on behalf of the United Kingdom. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The RC-Report was adopted by GRECO, following examination and debate pursuant to Rule 31.7 of the Rules of Procedure, at its 13th Plenary Meeting (24-28 March 2003)
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 Slovenian authorities 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 12 recommendations to Slovenia. Compliance with these recommendations is dealt with below. Besides, GRECO took note with interest of other information submitted by Slovenia concerning measures taken in pursuance of observations in the Evaluation report.

Recommendation i.

7. *GRECO recommended the creation of a special body or mechanism of co-ordination of all Government departments involved, directly or indirectly, in the prevention and detection of corruption, in order to design and implement an overall anti-corruption policy for Slovenia. This body or mechanism should, as a matter of priority, organise the systematic collection and analysis of statistical and other information available in order to understand more precisely how corruption is affecting Slovenia and the manner in which corruption cases are dealt with by the competent authorities.*
8. The Slovenian authorities have reported that the Government on 15 March 2001 created a "Co-ordination Group in Charge of Preventing Corruption" (hereinafter the "Co-ordination Group") as an interdepartmental body, consisting of representatives of the Ministries of the Interior, Finance, Economy, the Criminal Police, the Office for Prevention of Money Laundering, the Customs and Tax administrations, representatives of the Supreme Court and the Public Prosecution, the Auditing Commission and the Court of Auditors.
9. Moreover, on 13 July 2001 the Office of the Government for Corruption Prevention (OPC) was established. Its main role is to direct the development of anti-corruption strategies and draft

legislation. The OPC is in charge of the Co-ordination Group, but also co-ordinates its activities with other national and international bodies, governmental as well as non-governmental. The OPC may also suggest anti-corruption measures to particular institutions. It collects and processes statistical data. In addition, the OPC is the competent body for receiving complaints under the Slovenian Code of Conduct for Civil Servants.

10. The OPC has a total staff of seven persons, led by a director appointed by the Government. The OPC has its own premises and is divided into the Sector for Strategic Planning, the Sector for Prevention and Co-operation and the Sector for international co-operation, training etc.
11. The OPC prepared in 2002 the Draft Law on Corruption and the Draft National Anti-Corruption Strategy. Both are expected to be adopted in 2003.
12. GRECO took note of the information provided by Slovenia and was of the opinion that recommendation i. has been implemented satisfactorily.

Recommendation ii.

13. *GRECO recommended, despite budgetary constraints in Slovenia, that the authorities make a particular effort to increase progressively the number of police officers serving in the Anti-Corruption Division of the Organised Crime Section of the Police Directorate (ACB).*
14. The Slovenian authorities have reported that all the vacant posts within the ACB have been filled as from 1 December 2001. There were three investigators specialised in corruption detection at the State level, which was considered sufficient. Moreover, there were 23 anti-corruption posts in the 11 regional police directorates. 17 of these posts were filled. In the Ljubljana police directorate there were 6 posts and four of them occupied, in Maribor four posts, three of them occupied and in Celje three posts and only one occupied, etc. The management of the Criminal Investigation Police was trying very hard to increase the number of specialist investigators at the regional/local levels. However, it was difficult to find the specialists required. The Slovenian authorities have stated that an increase in the number of specialists dealing with investigation of corruption remained a high priority.
15. GRECO took note of the information provided by Slovenia. It noted that the ACB now has three investigators specialised in corruption at the state level. At the regional/local levels 17 out of 23 posts were filled. GRECO considered that recommendation ii. has been implemented satisfactorily and encouraged strongly the authorities to continue the increase in the number of staff progressively as recommended.

Recommendation iii.

16. *GRECO recommended strengthening the role of the public prosecutor (PP) in pre-trial proceedings, providing the PP with the means to direct the investigations not only in theory but also in practice. To this end, it further recommended the adoption of clear rules imposing upon the police the obligation to report the case to the PP as soon as there is sufficient indication that a corruption offence could have been committed. From that moment onwards, the Police should pursue the investigation under the sole direction and authority of the PP.*
17. The Slovenian authorities have reported that the role of the PP has generally been strengthened as a result of a new provision contained in Article 161, para. 2 of the Code of Criminal Procedure,

according to which the PP may request the police to perform particular investigative activities within certain deadlines. Moreover, the Prosecutor General and the Director General of the Police signed on 10 December 2001 an agreement, binding upon prosecutors and police staff, stipulating, *inter alia*, that police shall notify the responsible prosecutor of reasonable suspicion of a corruption offence within three days and that the police must report to the PP on important measures taken in criminal investigations, at least once every month. Furthermore, the PP in his/her direction of preliminary criminal proceedings shall, according to the agreement, give instructions on procedural matters and on the collection of evidence. The PP may participate in any investigative activity during the pre-trial proceedings.

18. GRECO took note of the information provided by Slovenia and considered that recommendation iii. has been implemented satisfactorily, but suggested that it would be preferable if the agreement referred to were incorporated into Slovenian law.

Recommendation iv.

19. *GRECO recommended the Slovenian authorities to pursue their reflection on a simplification of the pre-trial procedure by clarifying the respective roles of the Investigating Judge and the PP.*
20. The Slovenian authorities have reported that a Working Group under the Ministry of Justice, tasked to prepare a new concept of the Code of Criminal Procedure (CCP), was dealing with the question of the need for both the investigating judge and the PP in the pre-trial procedure. A possible solution was to abolish the institution of the investigating judge completely. Another solution was to redefine the functions of the investigating judge. Such a change would take some time. An amended CCP was expected by the end of 2003.
21. GRECO took note of the continuing process towards simplifying the pre-trial process in Slovenia. While there is still no final outcome, it considered that recommendation iv. has been implemented satisfactorily.

Recommendation v.

22. *GRECO recommended that the recruitment and promotion of PP should be based on objective criteria and procedures free from political interference to determine the candidates' experience, knowledge and suitability, for instance by organising independent professional panels.*
23. The Slovenian authorities have reported that a Law on Changes and Amendments of the State Prosecutor's Act (OG No. 110/02) was adopted by Parliament on 18 December 2002. According to this law, prosecutors are appointed and promoted following a proposal by the State Prosecutor's Council. The Council has seven members, all being state prosecutors; the Prosecutor General and his/her deputy are always members, one member is nominated by the Minister of Justice from among the Heads of prosecution districts and four members are elected by prosecutors who are not in leading positions. A Council proposal for appointment or promotion of a prosecutor is submitted to the Minister of Justice, who has to approve the proposal in cases of promotion. In cases of appointment of a new prosecutor, the Minister may reject the proposal but is obliged to approve it if the Council brings the same decision again with a two-thirds majority of all its members. The Minister has to submit the proposals to the Government for the final decision.

24. GRECO took note of the measures reported. It considered that the new system, to a large extent, has reduced possible political influence over recruitment and promotion of PPs. GRECO was of the opinion that recommendation v. has been implemented satisfactorily.

Recommendation vi.

25. *GRECO recommended to raise awareness among judicial authorities of the seriousness of corruption offences and the specific difficulties for detecting them and gathering evidence in corruption cases.*
26. The Slovenian authorities have reported that judges at various levels have participated in approximately 10 conferences/seminars on prevention and detection of corruption in 2001/2002. These events were both theoretical and practical exercises, organised by Slovenian authorities as well as international organisations. On June 2001, the Slovenian Association of Judges adopted a new Code of Judges' Ethics.
27. GRECO took note of the information provided and was of the opinion that recommendation vi. has been implemented satisfactorily.

Recommendation vii.

28. *GRECO recommended that the Slovenian authorities consider the possibility of extending the deadline foreseen in Article 152 of the Code of Criminal Procedure, whereby the authorisation for using special investigative means needs to be renewed by the judge after one month. At present a maximum of five requests for renewal is allowed. It is, therefore, not possible to make any further use of such means after six months.*
29. The Slovenian authorities have reported that they agree that the time limit in Article 152 needs to be extended and that this provision is being reconsidered by the Working Group under the Ministry of Justice which is preparing changes of the Code of Criminal Procedure (see also reply to the Fourth recommendation). They have added that, according to recent court practice, the time limit only applies in cases where there are no new facts or new suspected offences established.
30. GRECO took note of the on-going consideration to extend the time limit even in cases where no new fact or suspicions are at stake. It hoped that the outcome of this process will be a change of the time limits in the Code. GRECO was of the opinion that recommendation vii. has been implemented satisfactorily.

Recommendation viii.

31. *GRECO recommended Slovenia to ensure that information transmitted by the Parliamentary Commission under the Act on Incompatibility of Performing Public Function with Business Activity to the proper authorities, be followed by effective sanctions against those officials found to be in breach of the law. To this end, it also recommended that the said Commission be informed about the outcome of the procedure undertaken against such officials.*
32. The Slovenian authorities have reported that the Government had prepared a draft Act on Incompatibility of Holding Public Office with Profitable Activity, which was likely to be before Parliament for adoption by the end of 2003. The draft Act, which in comparison with the Law,

mentioned in the recommendation, widens the categories of officials affected, contains sanctions (for example, termination of function for misconduct). Moreover, the Draft obliges a Commission, established under the draft Act, in case of a breach of the draft Act, to notify the authority to which the official belongs as well as the competent disciplinary body to institute proceedings for the termination of his/her public functions. These bodies shall report measures taken, within three months, to the Commission.

33. GRECO took note of the positive measures underway as described by the Slovenian authorities. It considered that these measures, once implemented, would comply with recommendation viii. However, at present recommendation viii. has only been partly implemented.

Recommendation ix.

34. *GRECO recommended that the obligation to report, on a regular basis, on their financial situation be extended to prosecutors and judges.*
35. The Slovenian authorities have reported that the Judicial Service Act was amended in 2002 (No.67/02) with the provision that judges must report on their financial situation to the Judicial Council, the administrative body of judges, within one month after having taken up their duty and then every five years.
36. Prosecutors were still not under such an obligation. They would, however, also be obliged to report on their financial situation, once the Draft Act on *Incompatibility of Holding Public Office with Profitable Activity* (Article 2) would enter into force (to be adopted by Parliament by the end of 2003).
37. GRECO took note of the information provided and was of the opinion that the measures taken with regard to judges comply with recommendation ix., whereas the measures with regard to prosecutors were not yet implemented. Accordingly, GRECO concluded that recommendation ix. has been partly implemented.

Recommendation x.

38. *GRECO recommended that proper training on corruption matters be provided to members of the Commission for Revisions under the Law on Public Tenders in order to ensure that they would be able to assess procedural irregularities in the context of evidencing corruption.*
39. The Slovenian authorities have in essence reported that members of the Commission for Revisions under the Law on Public Tenders have undergone intensive training on public contract-connected corruption. In 2001 and 2002 four events (consultation / conferences / seminars) in Slovenia and abroad were available to members of the Commission. Moreover, the Commission issues, twice every year, together with the Ministry of Finance, a collection of expert papers in the field of review of public contracts. The authorities have added that the training had already raised the competence of the members of the Commission in review procedures had increased and that the prosecution had been notified by the Commission of some important cases of suspected corruption in 2001 and 2002
40. GRECO took note of the information provided and was of the opinion that recommendation x. has been implemented satisfactorily.

Recommendation xi.

41. *GRECO recommended that tax officials and inspectors be provided with training and guidelines on their possible contribution to the detection of corruption.*
42. The Slovenian authorities have replied that the Control Sector of the Tax Administration was established in 2001 in order to provide fiscal control over taxable persons. The Control shall monitor illegal activities, such as bribery and other forms of corruption. The Head of the Control Sector is a former Ministry of the Interior employee (police), with special competence in anti-corruption measures. The Sector has its own investigation department with special tax investigators. A proposal to amend the fiscal legislation in order to provide for more investigative powers to the Tax administration, such as search of premises, seizure and information gathering is likely to be before Parliament in 2003/2004.
43. The Internal Control Service of the Tax administration was also established in 2001. It has, *inter alia*, the task of ensuring that the work of the Tax administration employees is carried out in accordance with laws and regulations. New legislation and regulations have been adopted with a view to better regulate the conditions of Tax administration employees: for example, limitations on them in having other employment or duties in addition to their work in the Tax administration, they may not carry out inspections in cases where they are disqualified for reasons of family ties; they may not accept presents over a certain value, etc (Rules on Special obligations of employees of the Ministry of Finance, Tax Administration Act and the Rules on Special liabilities of Employees of the Ministry of Finance). Breaches of the provisions may result in disciplinary measures.
44. The Slovenian authorities have also reported that the Tax administration itself regularly organises training for its employees and that one of the most frequent topics is illegal activities, including corruption. In addition, the Tax Administration employees participate in training run by the Police and by international organisations. In 2002, high-ranking employees participated in three 2/3 days conferences on topics, such as "the incompatibility between public functions and profit making activities", "economic crime" and "corruption".
45. The Slovenian authorities have finally reported that the Tax administration, which is involved in the preparations of the National Anti-Corruption Strategy, co-ordinated by the OPC (see reply to recommendation i.), also has a close co-operation with the Ministry of the Interior and the Police, including exchange of data and information, common actions and training.
46. GRECO took note of the series of measures taken by the Slovenian authorities in order to improve the competences of the Tax administration employees in the fight against corruption and was of the opinion that recommendation xi. has been implemented satisfactorily.

Recommendation xii.

47. *GRECO recommended that guidelines be established for the Deputies of the National Assembly, especially its Commission for Mandates and Immunities, containing criteria to be applied when deciding on requests for the lifting of immunities, ensuring, moreover, that in the case of judges, decisions concerning immunity are free from political consideration and are based on the merits of the request submitted by the Public Prosecutor.*
48. The Slovenian authorities have reported that the question on guidelines for granting or lifting immunity has been the subject of numerous discussions in Parliament and that Slovenian

expertise has been involved. The Mandate and Immunity Commission of the National Assembly adopted in April 1996 its guidelines with regard to granting (or lifting of) immunity. The guidelines, which are being considered by the Commission as well as by the Deputies, in matters of immunity reads:

- I. *As a rule, immunity shall not be granted if:*
 - a) *the deputy is placed into custody or a criminal proceeding is instituted against him/her before his/her mandate is confirmed;*
 - b) *the deputy is caught in the act of committing a crime punishable by imprisonment of more than five years;*
 - c) *the deputy does not claim immunity.*
 - II. *In all of the above cases and in any other, the following shall be done above all:*
 - a) *each of the alleged criminal offences shall be dealt with separately, on the basis of a notice or request from the competent body;*
 - b) *functions of the deputy in question shall be determined;*
 - c) *it shall be estimated whether granting of immunity is essential for the deputy to perform his/her function;*
 - d) *as a rule, immunity shall not be granted and therefore each decision on granting the immunity shall be well grounded.*
49. There has also been a debate in Slovenia with regard to the procedure of the lifting of judges' immunity. An attempt to amend the legislation in order to introduce the rule that the Judicial Council should give its opinion on the immunity issue before Parliament decides, was not approved by Parliament in 2002.
50. In October 2001, a Working Group, consisting of representatives of the Supreme Court, the Public Prosecutors Office, the Mandate and Immunity Commission and the Slovenian representative in GRECO, was given the task to establish temporary guidelines concerning criteria for the lifting of judges' immunities. The working Group is due to finalise its proposal in early 2003.
51. GRECO noted that the recommendation concerning general guidelines was complied with long before the adoption of the Evaluation report and regretted that Slovenia had not provided this information at an earlier stage.
52. However, with regard to the lifting of judges' immunity, GRECO took note of the failed attempt to amend the legislation in order to involve the Judicial Council in the procedure. Moreover, the establishment of guidelines with regard to judges is only at the drafting stage. Accordingly, GRECO considered that recommendation xii. has been partly implemented.

III. CONCLUSIONS

53. In view of the above, GRECO concluded that Recommendations i.–vii., x. and xi. have been implemented satisfactorily. Recommendations viii., ix. and xii. have been partially implemented and additional information on their implementation is needed.
54. In accordance with Rule 32.2 (i) of its Rules of Procedure, GRECO invites the Head of the Slovenian delegation to provide additional information by 30 September 2004 on the progress of the implementation of Recommendations viii., ix. and xii.