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## **Second Evaluation Round**

### **Compliance Report on Slovenia**

Adopted by GRECO  
at its 28<sup>th</sup> Plenary Meeting  
(Strasbourg, 9-12 May 2006)

## I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Slovenia at its 16<sup>th</sup> Plenary Meeting (8-12 December 2003). This Report (Greco Eval II Rep (2003) 1E) was made public by GRECO, following authorisation by the authorities of Slovenia, on 19 March 2004.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Slovenia submitted their Situation Report (RS-report) on the measures taken to implement the recommendations on 4 July 2005. The Slovenian authorities submitted additional information on 2 February 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, Serbia and Montenegro and the United States of America to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Aleksandra POPOVIC on behalf of Serbia and Montenegro and Ms Jane LEY on behalf of the United States of America. 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 Slovenia, to comply with the recommendations contained in the Evaluation Report.

## II. ANALYSIS

5. It was recalled that GRECO in its Evaluation Report addressed 10 recommendations to Slovenia. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended that, in order to promote the use in practice of the legal provisions on temporary seizure of proceeds of crime, 1) the prosecution service make full use of the legal provisions on temporary seizure at the very beginning of an investigation – including, if appropriate, at the preliminary stage –, 2) the Criminal Investigation Department's police officers and prosecutors be given specific training in application of the legal provisions and 3) support in the form of measures such as model documents for the provisional seizure (of bank deposits, shares, real estate etc.) be prepared and made available to police officers, investigating judges and prosecutors.*
7. The authorities of Slovenia report on the first part of the recommendation that the legal provisions on temporary seizure were used 11 times in 2004 and 11 times in 2005 in the preliminary phase of a criminal investigation. To further promote the use of these provisions in practice, the results of cases in which the provisions on temporary seizure were used as well as methods to overcome possible obstacles in the application of the provisions on seizure were presented to prosecutors at the Public Prosecutors' Education Days in 2004 and a seminar on the police strategy for combating economic crime in June 2005. They were also published in the internal gazette of the prosecution service. The (timely) application of the provisions on seizure will continue to be monitored by the Supreme State Prosecutor's Office.

8. On the second part of the recommendation the Slovenian authorities refer to various expert consultations, seminars, trainings events and conferences<sup>1</sup>, which have been organised for prosecutors and police throughout 2004 and 2005. In addition, more emphasis was placed on seizure of proceeds in the regular training programme of the Police for the period 2003-2007 and the topic 'seizure of proceeds of crime' was specifically included in the police strategy on combating organised crime (2005-2007).
9. With regard to the final part of the recommendation, the Slovenian authorities report that model documents for seizure of proceeds were distributed to police officers and prosecutors at the aforementioned expert consultations, seminars, training sessions and conferences and made available on the web site of the police. Furthermore, guidelines for carrying out financial investigations, which include directions on the use of legal provisions on seizure, have been issued for internal use by the police.
10. GRECO takes note of the information provided by the Slovenian authorities. GRECO notes that training in the application of the legal provisions on seizure, and support - in the form of measures such as model documents – has been provided. As to the first part of the recommendation, GRECO takes the view that it would be difficult to assess whether the 22 cases in 2004 and 2005 - in which temporary seizure was used at the early stages of an investigation – represent *full* use of the legal provisions on temporary seizure in the very beginning of an investigation. Nevertheless, GRECO considers that efforts are being made to further promote the use of these provisions in practice. GRECO encourages the Slovenian authorities to continue with these efforts, to ensure that the provisions on temporary seizure are used to the fullest extent possible.
11. GRECO concludes that, in light of the above, recommendation i has been dealt with in a satisfactory manner.

#### **Recommendation ii.**

12. *GRECO recommended that the police specialised anti-corruption unit should be positioned close enough to the top of the Police services, with clear and short lines of responsibility and accountability, guaranteeing quick and direct contacts with the prosecution service.*
13. The authorities of Slovenia report that a broad consultation has taken place on the topic of the most optimal positioning of the anti-corruption police units. As a result of this consultation, in August 2004, the units for the investigation of corruption were transferred – in line with the new classification of the police – from the units for the detection and investigation of organised crime to the units for the investigation of economic crime. Further consultations on the positioning of the anti-corruption units are nevertheless ongoing. To ensure quick and direct contacts with the prosecution service a new Regulation on the Co-operation of the State Prosecutor's Office and Police (No. 52/04) has been adopted, which further specifies how and when the State Prosecutor's Office should be (directly) contacted.

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<sup>1</sup> Apart from the aforementioned Public Prosecutors' Education Days in 2004 and the seminar on the police strategy for combating economic crime in June 2005, these include an expert consultation for police investigators, prosecutors and staff of the Financial Intelligence Unit on 'Seizure of Proceeds' in April 2004, two one-day trainings for police investigators, public prosecutors and staff of the Financial Intelligence Unit on financial investigations, an expert consultation on economic crime in April 2005 and additional specialised training for investigators.

14. GRECO takes note of the information provided by Slovenia. GRECO considers that with the adoption of the new Regulation on the Co-operation of the State Prosecutor's Office and Police the process of contact and co-operation with the state prosecutors has apparently been clarified. With regard to the positioning of the anti-corruption units, GRECO recalls that in the Second Round Evaluation Report it had noted that the process of starting an investigation into corruption was especially complex in Slovenia and that a decision to start an investigation had to be put through several hierarchical stages in the police, involving different spheres of responsibility. In this respect it is not clear if the transfer of the anti-corruption units to the units for the investigation of economic crime has sufficiently improved this process, nor if clear and short lines of responsibility and accountability have now been established. GRECO takes note of the fact that the positioning of the anti-corruption units is subject to further consideration and is confident that this consultation will lead to further improvements in the decision-making structure within the police in general and with regard to the anti-corruption units in particular.
15. GRECO concludes that recommendation ii has been partly implemented.

#### **Recommendation iii.**

16. *GRECO recommended that the prosecution service be swiftly informed about investigations so that it can assume leadership thereof and speedily decide whether provisional measures for the deprivation of property must be taken.*
17. The authorities of Slovenia report that a Regulation on the Co-operation of the State Prosecutor's Office and the Police in Detecting and Prosecuting Perpetrators (No. 52/04) has been adopted, which clarifies at what point in an investigation (or preliminary stage of an investigation) police officers are obliged to inform state prosecutors. This Regulation outlines for example that the State Prosecutor's Office must be informed immediately (orally or in writing, as appropriate) after the detection of a criminal offence which requires an inspection or any other investigative steps and/or within three days after obtaining information that a corruption offence has been committed or is in preparation. The obligation to inform the prosecution service is also included in the Criminal Procedure Act, as amended, which stipulates (article 160A) that the State Prosecutor can direct the police in an investigation by giving instructions (including instructions on provisional measures).
18. GRECO takes note of the information provided by the Slovenian authorities and concludes that recommendation iii has been implemented satisfactorily.

#### **Recommendation iv.**

19. *GRECO recommended to establish a regular assessment in order to: 1) ensure that the organisation of the public administration (as provided by legislation or executive decree) does not create opportunities for corruption; 2) evaluate the effects of the new recruitment and career system on the nomination and retention of highly qualified persons and 3) ensure that the provisions of the Law on access to information be implemented. The results of this assessment should be made public.*
20. The authorities of Slovenia report on the first part of the recommendation that, in 2003, the government started the process of reorganising public administration. Since then a number of government institutions have been abolished and tasks have been redistributed among various ministries. The aim of the reorganisation is to provide for a more transparent and efficient

organisation of public administration, by preventing fragmentation and duplication in the work of various government agencies and ministries, enabling a more efficient use of human and financial resources and providing for clearer lines of responsibility. Furthermore, in June 2004, the 'Resolution on the Prevention of Corruption' was adopted, which *inter alia* provides for the "monitoring of regulations on the organisation, field of work and tasks of public administration authorities, to ensure transparent, rational and effective implementation" of their tasks.

21. Regarding the second part of the recommendation, the Slovenian authorities report that the Civil Servants Act took effect on 28 June 2003 and that since then the Ministry of Public Administration has regularly collected information on the application and enforcement of the Act in practice by personnel departments, with the intention to evaluate the impact of this Act in future. However, an overall evaluation of the implementation of the Civil Servants Act has so far not been undertaken because of the short time that has elapsed since the implementation of parts of this Act.
22. As to the third part of the recommendation, the Slovenian authorities report that the Act on Access to Information of a Public Nature has been adopted and that further amendments to the act have been introduced. On the basis of annual implementation reports, which public administrative bodies are obliged to provide to the Ministry of Public Administration, the Ministry publishes annually a report on the implementation of the Act on Access to Information of a Public Nature.
23. GRECO takes note of the information provided by the Slovenian authorities. It appears that some work has been carried out on gathering information that might help in an assessment of whether the organisation of public administration creates opportunities for corruption and in an assessment of the nomination of highly qualified individuals under the Civil Servants Act. However, no information has been provided on evaluating the effects of the new career system on the retention (and not just nomination) of highly qualified persons and, more in general, no regularised assessment plan, tool or programme was identified as having been developed. With regard to the Act on Access to Information of a Public Nature, GRECO welcomes the annual report on the implementation of the Act on Access to Information of a Public Nature by the Ministry of Public Administration and the fact that the report was made public on the internet. GRECO furthermore notes that reducing opportunities for corruption in public administration - by providing for greater transparency and clearer lines of responsibility - is a major concern in the reorganisation of public administration, that measures on assessing or monitoring public administration are included in the Resolution on the Prevention of Corruption and that information is being collected on the application of the Civil Servants Act. Although it thus appears that some progress in all three areas covered by the recommendation has been made, GRECO was not made aware that a (regular) assessment has been carried out (or that the basic structures for such an assessment mechanism are in place) nor that such an assessment has been made available to the public.
24. GRECO concludes, in light of the above, that recommendation iv has been partly implemented.

#### **Recommendation v.**

25. *GRECO recommended that a conflict of interest restriction that provides for consistently applied and enforceable standards be adopted for all those who carry out or have carried out functions on behalf of the public.*

26. The authorities of Slovenia report that on 30 January 2004 the Prevention of Corruption Act, which defines a broad range of restrictions for public officials<sup>2</sup> relating to the performance of paid activities, acceptance of gifts, conducting business activities, with special restrictions applying to matters related to public procurement, entered into force. However, since then, on 10 February 2006, the National Assembly has adopted the Act on Incompatibility of Public Function with Profit-Making Activities (hereafter Incompatibility Act), which is to supersede (parts of) the Prevention of Corruption Act. The Incompatibility Act, which entered into force on 11 March 2006 and was expected to be implemented within 3 months thereafter<sup>3</sup>, contains obligations for public officials<sup>4</sup> relating to the submission of financial declarations and restrictions on receiving gifts; it also defines incompatibilities of public functions with other (profit-making) activities and provides for sanctions for public officials who do not comply with the requirements. For civil servants<sup>5</sup> conflict of interest restrictions are included in the Civil Servants Act. By virtue of article 100 of the Civil Servants Act, civil servants are not allowed to perform any activities which (a) violate competition clauses in the law governing the employment, (b) might affect their impartiality, (c) might entail misuse of restricted information or (d) might be harmful to the reputation of the employing entity. Violation of article 100 of the Civil Servants Act is considered a minor disciplinary violation. In addition, high-ranking civil servants (director-generals, secretary-generals etc.) cannot perform any profit-making activities and legal entities in which they (or their spouses or their relatives) hold shares exceeding 20 percent of the company's total shares are banned from business relations with entities in which these civil servants work. Contracts concluded in violation of this provision are considered null and void.
27. GRECO takes note of the measures reported. It however notes that it does not appear that a conflict of interest restriction (or even an incompatibilities standard) has been adopted for *all* those who carry out or have carried out functions on behalf of the public. In this regard GRECO recalls that in its Second Round Evaluation Report it discussed, in particular, the need for conflicts of interest rules for employees of private companies holding concessions and/or having the authority to issue licenses on behalf of the public. Furthermore, it should also be noted that a conflict of interest restriction, as GRECO has also indicated in its Second Round Evaluation Report, is broader than an incompatibilities standard and, for example, also focuses on limiting the official actions of public officials where the outside activity or interest is not prohibited but could nevertheless create a conflict with a specific official task.
28. GRECO concludes, in light of the above, that recommendation v has been partly implemented.

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<sup>2</sup> Public officials within the meaning of this Act are defined as deputies, members of the National Council, President of the Republic, Prime Minister, ministers, state secretaries, Constitutional Court judges, judges, state prosecutors, Governor of the Bank of Slovenia, Human Rights Ombudsman, officials serving in the National Assembly, the National Council and with the President of the Republic, government officials, officials serving at the Constitutional Court, Court of Auditors, the Bank of Slovenia and with the Human Rights Ombudsman, public officials in other national bodies and public officials in self-governing local communities (hereinafter: local communities). Sections of the Act on conflicts of interest however also apply to the director of the Institute of Pension and Disability Insurance, director of the Health Insurance Institute, director of the Insurance Supervision Agency, director of the Securities Market Agency and their deputies, members of individual or collective management bodies in public institutes, public undertakings, public funds, public agencies and companies majority-owned by the Republic of Slovenia or local communities appointed by the national or local authorities.

<sup>3</sup> However, the implementation of the Incompatibility Act was suspended by the Constitutional Court on 24 April 2006 pending its review of the constitutionality of certain provisions of the Act.

<sup>4</sup> The definition of public official is the same as under the Prevention of Corruption Act. In addition, the Incompatibility Act provides that its provisions on officials also apply to former presidents of the Republic who receive benefits from the state after their term in office (with the exception of pension benefits) and officials whose term in office has come to an end but who still receive compensation in accordance with the law.

<sup>5</sup> 'Civil servants' are all individuals employed in the public sector, with the exclusion of individuals working for companies in which the state or local communities are controlling shareholders or have prevailing influence and public officials in state bodies and local community bodies.



#### **Recommendation vi.**

29. *GRECO recommended that any requirement for the filing of a financial declaration have an effective mechanism for enforcement, for instance that intentionally false statements made on the reports be actionable under the criminal code, that information required to be reported is related to restrictions of office including any new conflict of interest standard, and if reports are required, that they provide a basis for counselling in ways to avoid potential conflicts of interest.*
30. The authorities of Slovenia report that on the basis of the Prevention of Corruption Act, which entered into force on 30 January 2004, public officials (see above) are obliged to file financial declarations, which are reviewed by the Commission for the Prevention of Corruption. However, as mentioned above, parts of the Prevention of Corruption Act are planned to be superseded by the Incompatibility Act, which also requires public officials to submit financial declarations. By virtue of this Incompatibility Act, the Commission for the Prevention of Corruption will be replaced by a Parliamentary Commission which will be entrusted with reviewing financial declarations of public officials, with the exception of judges, prosecutors and other officials within the judiciary. The financial declarations of judges, prosecutors and other officials within the judiciary will be reviewed by the Judicial Council. Tax and other authorities are furthermore required to submit information on the assets and income of a public official, if so requested by the Commission. The financial declarations submitted under the Incompatibility Act will be accessible to the public. Both the Prevention of Corruption Act and the Incompatibility Act provide for sanctions for breaches of their respective requirements. In addition, the Slovenian authorities have reported that, under both the current law and the Incompatibility Act, if it has been determined that a public official has submitted false data in his/her financial declaration, s/he can be prosecuted for forgery under Article 256 of the Penal Code.
31. GRECO takes note of the information provided. GRECO considers that it appears that a potentially effective mechanism for the enforcement of the requirements to submit financial declarations has been set up. It also notes that this mechanism may be enhanced in future, by providing that the public will be able to review the information submitted under the Incompatibility Act and by requiring tax and other authorities to submit information on assets and income of a public official. However, no information has been provided on the current or anticipated use of financial declarations for preventive purposes (i.e. as a basis for counselling on ways in which to avoid potential conflicts of interest).
32. GRECO concludes, in light of the above, that recommendation vi has been partly implemented.

#### **Recommendation vii.**

33. *GRECO recommended that the draft anti-corruption strategy be adopted and that its provisions to promote education, training and counselling on codes of conduct and other standards of public service be implemented without delay; GRECO also recommended that the Commission for Prevention of Corruption be provided with some authority to review, in a public fashion if appropriate, the manner in which each employing entity is providing preventive services as well as enforcing the codes.*
34. The authorities of Slovenia report that, on 16 June 2004, the National Assembly of the Republic of Slovenia adopted the Resolution on the Prevention of Corruption (No 85/04), which is considered to be the anti-corruption strategy. The Resolution sets out objectives concerning *inter alia* amendments of the Code of Ethical Conduct and the provision of training to authorities

taking decisions on violations of the Code. It was envisaged that the Commission for the Prevention of Corruption would co-ordinate the implementation of the Resolution, for which it adopted an Action Plan in February 2005 and would also carry out certain counselling and educational tasks with regard to *inter alia* ethical standards in the public sector. It was furthermore foreseen that national authorities would report annually to the Commission on the implementation of the provisions of the Action Plan and that the methods used by employing entities in providing preventive services as well as enforcing the codes would be addressed in the integrity plan, which public and local community bodies were required to adopt on the basis of the Prevention of Corruption Act. The Commission was given the authority to review whether public and local community bodies comply with these integrity plans. However, the Slovenian authorities have also reported that the Prevention of Corruption Act and the Commission may be abolished. It is planned that certain tasks carried out by the aforementioned Commission, such as the preparation of a new strategy for the prevention of corruption and the reviewing of integrity plans, will be taken over by a special unit or group of experts of the Ministry of Justice. This special unit or group of experts is however not yet operational.

35. GRECO takes note of the information provided. GRECO notes that the anti-corruption strategy has now been adopted and that progress has been made in the implementation of its provisions on the promotion of education, training and counselling on codes of conduct. However further implementation of its provisions and reviews of the manner in which employing entities are providing preventive services and enforcing codes, appear to be tied to the operation of the Commission for the Prevention of Corruption. In view of the uncertainty over both the continued existence of the Commission and the transfer of its tasks (in the areas covered by the recommendation) to another entity, GRECO can at this moment not conclude that this recommendation has been fully complied with.
36. GRECO concludes, in light of the information available, that recommendation vii has been partly implemented.

#### **Recommendation viii.**

37. *GRECO recommended that officials from the investigative and judicial authorities make full use of the provisions of the Law on Liability of Legal persons and receive specific training, to complement their skills, on how to better apply these provisions.*
38. The authorities of Slovenia report that, according to information from the Supreme State Prosecutor's Office, 411 criminal reports were filed against legal persons in 2003 and 381 in 2004. Furthermore, the application of the legal provisions on corporate criminal liability was addressed in the regular training courses held for enforcement and investigative authorities as well as in two expert consultations<sup>6</sup>.
39. GRECO takes note of the information provided by the Slovenian authorities. In this connection, GRECO recalls however that it was already reported in the Second Evaluation Round Report that a large number of criminal reports were filed against legal persons. However, these reports were either not pursued or dismissed at a later stage. GRECO considers that this situation does not appear to have changed. On the issue of training, GRECO takes the view that the application

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<sup>6</sup> One expert consultation "Seizure of Proceeds" on 22 April 2004, as referred to in the section of the present report dealing with the implementation of recommendation i, and one expert consultation on 23 May 2004 on "Commercial criminal law to enhance the state's effectiveness in controlling criminal and corruption offences".



of the legal provisions on corporate criminal liability does seem to have been sufficiently addressed in the regular training programme and expert consultations.

40. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

41. *GRECO recommended to promote training activities in the fields of book-keeping, auditing and accounting and public invitations to tender and procurement to bodies involved in detection, investigation, prosecution and adjudication.*
42. The authorities of Slovenia indicate that various training activities have been undertaken in the fields covered by this recommendation. In January 2004, the Criminal Investigation Police organised an expert consultation on "Corruption in the Economy" and, in March 2005, the Court of Auditors organised a course for auditors on the search and detection of irregularities in public procurement procedures and organised special training for police officers, prosecutors, auditors and tax officials on "Public Sector Efficiency" in which auditing irregularities were also addressed. Auditors also participated in training provided by the International Organisation of Supreme Audit Institutions and the European Organisation of Supreme Audit Institutions. Finally, in April 2005 police officers, prosecutors, judges, auditors, tax officials and others participated in a conference on the "Problem of Financial Crime in Slovenia".
43. GRECO takes note of the information provided and concludes that recommendation ix has been implemented satisfactorily.

#### **Recommendation x.**

44. *GRECO recommended to consider the opportunity of including additional administrative sanctions or other dissuasive measures – targeting legal persons.*
45. The authorities of Slovenia report that the effectiveness of the sanctions for criminal offences committed by legal persons was addressed in a seminar held by the Comparative Law Institute in co-operation with the Faculty of Law and the Police, attended by legal experts and police officials. It was concluded in this seminar that the sanctions applicable to legal persons were largely sufficient.
46. GRECO takes note of the information provided. Although it would have appreciated to receive information on how the outcome of the aforementioned seminar was endorsed by the government, GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

### **III. CONCLUSIONS**

47. **In view of the above, GRECO concludes that Slovenia has implemented satisfactorily or dealt with in a satisfactory manner just under half of the recommendations contained in the Second Round Evaluation Report.** Recommendations iii and ix have been implemented satisfactorily and recommendations i and x have been dealt with in a satisfactory manner. Recommendations ii, iv, v, vi, vii and viii have been partly implemented.
48. GRECO invites the Head of the Slovenian delegation to submit additional information regarding the implementation of recommendations ii, iv, v, vi, vii and viii by 30 November 2007.