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Addendum

First Evaluation Round

Addendum to the Compliance Report on Slovenia

Adopted by GRECO
at its 26th Plenary Meeting
(Strasbourg, 5-9 December 2005)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Slovenia at its 4th Plenary meeting (12-15 December 2000). The Report (Greco Eval I Rep (2000) 3E), which contains 12 recommendations addressed to Slovenia was made public on 15 March 2001.
2. Slovenia submitted the Situation Report required by GRECO's compliance procedure on 27 December 2001 and an update thereto on 16 January 2003 concerning the implementation of the recommendations. On the basis of these reports and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-report) on Slovenia at its 13th Plenary meeting (24-28 March 2003) which was made public on 25 April 2003. The Compliance Report (Greco RC-I (2003) 1E) concluded that nine of the 12 recommendations (i-vii, x and xi) had been implemented satisfactorily, whereas three of the recommendations had been partly implemented (viii, ix and xii); GRECO requested additional information on their implementation. The additional information requested was submitted on 20 September 2004 and 12 April 2005. Slovenia also submitted additional information regarding the implementation of recommendation viii during GRECO Plenary Meetings 23 (17-20 May 2005), 24 (27 June – 1 July 2005) and 25 (10-14 October 2005).
3. Pursuant to Rule 31, paragraph 9.1 of GRECO's Rules of Procedure the objective of the present Addendum to the First Round Compliance Report is to appraise the implementation of recommendations viii, ix and xii, in the light of the additional information referred to in paragraph 2 above.

II. ANALYSIS

Recommendation viii

4. *GRECO recommended 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.*
5. GRECO recalls that it concluded in the RC-report that the draft Act on Prevention of Corruption, including *inter alia* the establishment of a Commission (for the Prevention of Corruption) as a monitoring mechanism under the Act, once implemented, would comply with the requirements of recommendation viii.
6. The Slovenian authorities have reported that the Act on Prevention of Corruption (No. 2-71/2004) was adopted by Parliament in December 2003, that it entered into force on 30 January 2004 and that the Commission for the Prevention of Corruption became operational on 1 October 2004. However, in May 2005 the authorities informed GRECO that the Commission is to be abolished by the end of 2005¹ by means of legislation (draft law on incompatibility of Profit Making Activities with Public Functions).
7. GRECO notes that the Act on Prevention of Corruption establishes the Commission for the Prevention of Corruption as an independent authority, accountable only to Parliament. One of the tasks of the Commission is to supervise incompatibilities of public office with profitable

¹ The authorities have informed GRECO that this matter may be subject to a referendum in 2006.

activities of public officials, through monitoring the receipt of gifts and the financial situation of public officials (Article 2). The Act widens the scope of public officials covered in comparison to the situation prior to its adoption. Moreover, the Act provides for sanctions for public officials who do not comply with the requirements stipulated. The sanctions applicable under the Act comprise 1) warning 2) reduction in salary and 3) dismissal. Moreover, the Commission is obliged to report on a regular basis to Parliament and, in specific situations, to the Parliamentary Commission on Prevention on Corruption (Articles 13-15).

8. GRECO would have maintained its previous position that the requirements of recommendation viii were fulfilled with the implementation of the Act on Prevention of Corruption. However, under the present circumstances, where the newly established Commission for the Prevention of Corruption is about to be abolished, and this only one year after becoming operational, GRECO cannot - without further information - conclude that recommendation viii has been fully complied with.
9. GRECO concludes that recommendation viii has been partly implemented.

Recommendation ix

10. *GRECO recommended that the obligation to report, on a regular basis, on their financial situation be extended to prosecutors and judges.*
11. GRECO recalls that it was concluded in the RC-report that the part of recommendation ix which concerns the reporting obligation on judges had been implemented, whereas the part concerning the reporting obligation on prosecutors had not been complied with.
12. The Slovenian authorities have reported that the Act on Prevention of Corruption now also includes an obligation on “state prosecutors” as well as several other categories of “functionaries” (Article 2) to report on their financial situation.
13. GRECO concludes that recommendation ix has been implemented satisfactorily.

Recommendation xii

14. *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.*
15. GRECO recalls that it was concluded in the RC-report that the part of recommendation xii which concerns general guidelines for the Parliamentary procedure of lifting immunities had been complied with. However, the part which concerns the lifting of judges’ immunities (guidelines and decisions free from political considerations) had not been dealt with as draft legislation in this respect had not been accepted by Parliament.
16. The Slovenian authorities have now reported that a working party consisting of representatives of Parliament, the Judiciary, and the Office for the Prevention of Corruption has drafted “*Guidelines for Deputies Deciding on the Immunity of Judges*”. The relevant Parliamentary Committee has not yet approved these Guidelines.

17. GRECO has taken note of the draft guidelines, which to a large extent involve the Judicial Council in the Parliamentary process in order to obtain its opinion before a decision is taken on lifting the immunity of members of the judiciary. GRECO welcomes this approach which, if fully implemented, will help to “de-politicise” decisions on immunity of judges. The Slovenian authorities have clearly demonstrated further progress with regard to the implementation of this recommendation. However, the Guidelines have still not been approved by the appropriate bodies. Consequently, this part of the recommendation has, to date, not been fully complied with.
18. GRECO concludes that recommendation xii has been partly implemented.

III. CONCLUSION

19. In addition to the conclusions contained in the First Round Compliance Report on Slovenia and in view of the above, GRECO concludes that Slovenia has implemented recommendation ix and that recommendations viii and xii have been partly implemented.
20. Regarding more particularly recommendation viii and the information currently available to GRECO concerning the planned dismantling of the Commission for the Prevention of Corruption, GRECO is concerned that this may well amount to a substantial weakening of the control of incompatibilities of functions referred to in that recommendation. More significantly, it may have a negative impact on the overall co-ordination of the anti-corruption policy in Slovenia, one of the main functions of the Commission. GRECO therefore requests the Slovenian authorities to provide further information on the reasons for this move and on whether the important tasks of the Commission will be continued or discontinued. This information should reach GRECO by 1 March 2006.