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Addendum

First Evaluation Round

Addendum to the Compliance Report on Moldova

Adopted by GRECO
at its 36th Plenary Meeting
(Strasbourg, 11-15 February 2008)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Moldova at its 15th Plenary Meeting (13-17 October 2003). This report (Greco Eval I Rep (2003) 3E) which contains 14 recommendations addressed to Moldova, was made public on 20 November 2003.
2. Moldova submitted the Situation Report requested by GRECO's compliance procedure on 18 August 2005. On the basis of this report and a plenary debate, GRECO adopted the First Round Compliance Report (RC Report) on Moldova at its 26th Plenary Meeting (9 December 2005); the report was made public on 4 January 2006. The Compliance Report (Greco RC-I (2005) 4E) concluded that recommendations ii, iii, vi, x, xii and xiii had been implemented satisfactorily and that recommendations iv, vii, ix and xiv had been dealt with in a satisfactory manner. Recommendations i, v and viii had been partly implemented and recommendation xi had not been implemented; GRECO asked for additional information on the implementation of the recommendations which had been either not or only partly implemented. The information requested was submitted on 27 July 2007.
3. Pursuant to Rule 31, paragraph 9.1, of GRECO's Rules of Procedure, the purpose of the present Addendum to the First Round Compliance Report is to appraise the implementation of recommendations i, v, viii and xi in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended that the necessary studies be carried out to gain a clearer insight into the scale of corruption and its various features so that anti-corruption initiatives and plans can be targeted more effectively.*
5. GRECO recalls that the information previously supplied (in connection with the RC Report) indicated, without providing any further details, and therefore without giving GRECO the opportunity to assess its potential coverage, that a multidisciplinary study had been conducted and presented in November 2004 and had then served to prepare the government's anti-corruption strategy. The Moldovan authorities had also pointed out that an opinion poll was being prepared and GRECO, although it welcomed this initiative, had concluded that such research was insufficient to serve as a guideline for the countries public anti-corruption policies.
6. The Moldovan authorities point out that information concerning the characteristics of corruption in Moldova are set out in Chapter 1 of the National Strategy for Preventing and Combating Corruption of 16.12.2004 under the title "Corruption in the Republic of Moldova". Similar information concerning corruption in public administration is also set out in the Central Government Administrative Reform Strategy of 29.12.2005 (as already indicated in para. 59 of the Second Round Evaluation Report). No additional information is given on these studies.
7. Nevertheless, the Moldovan authorities state that, since the adoption of these strategies, the characteristics of corruption have continued to be the subject of study, mainly by the Directorate General of Analysis, Prevention and Forecasting of the *Centre for Combating Economic Crimes and Corruption* (CCCEC). During the period 2006-2007, this department conducted various studies on the characteristics of corruption in Moldova, including studies entitled: "Trends in

corruption over the period 2002-2006 and expected trends for the period 2007-2009”, “Some aspects of the prevention of economic crime and corruption on the real estate market in Moldova”, and “Quantification of the phenomenon of corruption in Moldova¹”. Studies on the characteristics of corruption have also been conducted in specific sectors such as the wine and sugar industries and education, and in respect of the appraisal procedure for accrediting public health institutions etc. The CCCEC has also carried out a study into local authorities’ decision-making practices. The Moldovan authorities say that the conclusions of these studies, several of which have been published on the CCCEC website, have provided important guidelines for the establishment of priorities in the fight against corruption (including the action plan for the implementation of the National Anti-Corruption Strategy for 2007-2009) and the adoption of measures².

8. GRECO welcomes these fresh efforts which are in keeping with recommendation i. It appears that the Moldovan authorities now have further tools (not just based on opinion polls) to help them fine-tune and focus their anti-corruption reforms more effectively.
9. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation v.

10. *GRECO recommended that a code of conduct for public servants be adopted and regularly circulated among public servants and the public at large.*
11. The Moldovan authorities first draw attention to the fact that the Central Government Administrative Reform Strategy was adopted on 29.12.2005 and that it was decided to simultaneously prepare, co-ordinate and enact several pieces of draft legislation concerning the public service, including draft laws on the conflict of interest, the public service and the status of public servants, and on the code of conduct for public servants.
12. The draft Law on a Code of Conduct for Civil Servants – which, according to the RC Report, had been transmitted to the Government on 15 November 2005 – was finally approved by Government Decision No. 1132 of 02.10.2006 and forwarded to the Parliament on 10.10.2006. Its adoption has been suspended pending the final adoption of two other draft laws.

¹ The Moldovan authorities provided a copy of this study (based on opinion polls conducted by civil society and data provided by the police) in the national language.

² The Moldovan authorities provided two examples:

- the study on the characteristics of corruption in education made it possible to draft several recommendations to the government and the ministry concerned; these recommendations included: a) the adoption of a code of ethics for all teachers and other staff employed in the education sector, and the need to ensure compliance with the code; b) the introduction of an effective system of monitoring and internal auditing within the Ministry of Education and Youth, which is designed, in particular, to monitor educational establishments’ management of extra-budgetary funding; c) the adoption of a single set rules for school exams ; d) the drafting of clear rules concerning penalties for unexplained absences.

- the study on public healthcare markets led to the drafting of recommendations, including: a) the need for guidelines on the acquisition of medical equipment which are in keeping with recommended international practices; b) the need to establish, as part of a system of rules of procedure, the powers and responsibilities of members of the group responsible for public procurement and to provide for appropriate penalties if these rules are broken; c) the publication, at the beginning of the year, the programme of acquisitions for the coming year; d) the publication of information on public procurement contracts and their execution.

13. Pending the enactment of the Law on the code of conduct for public servants, all public authorities³ were asked to ensure that, during 2007, their employees took note of and studied the Council of Europe's Model Code of Conduct for Public Officials (Recommendation No. R(2000)10 of the Committee of Ministers of the Council of Europe). The public authorities are continuing to prepare and implement codes of conduct in specific sectors⁴.
14. GRECO notes the information provided and particularly that the Moldovan authorities appear to be preparing for a radical reform of the public administration. As regards the specific question of the adoption of a (general) code of conduct for all public servants, the situation does not appear to have changed since the RC Report. In this context, GRECO welcomes the fact that efforts are continuing to prepare codes of conduct in specific sectors⁵. It also notes with interest that all Moldovan authorities have been asked to take account of the Model Code of Conduct set out in Recommendation No. R(2000)10. These initiatives should help to ensure that more public servants are covered by standards of conduct. GRECO therefore invites the Republic of Moldova to finalise the adoption of the Code of Conduct for Public Servants and to circulate it widely once it has been adopted.
15. GRECO concludes that recommendation v remains only partly implemented.

Recommendation viii.

16. *GRECO recommended that the anti-corruption unit within the Public Prosecutor's Department (or any other anti-corruption body of the Public Prosecutor's Department) be organised in such a way to provide interface with the Centre for Fighting Economic Crimes and Corruption, for example by creating regional divisions.*
17. The Moldovan authorities point out that, as indicated in the RC Report, 2 regional divisions of the anti-corruption unit of the Public Prosecutor's Department have been set up in the centres where the CCCEC has regional offices (i.e. in Baltsi and Cahul). They also state that the anti-corruption corruption unit of the Public Prosecutor's Department has been given responsibility for criminal proceedings in cases being investigated by CCCEC officers⁶, and that prosecutors whose main task is to monitor the application of and compliance with legislation designed to prevent and combat corruption have been appointed in all regional prosecutors' offices⁷. Finally, the Law on Public Prosecutors' Departments (Article 10 para (3)) has been supplemented⁸ and public prosecutors have been given the right to co-ordinate the work of the bodies responsible for criminal proceedings and those responsible for operational activities (including in cases

³ Pursuant to paragraph 5.3 of the Action plan for the implementation of the National Strategy for Preventing and Combating Corruption for 2007-2009

⁴ At present the following professions have a code of professional conduct: judges (code adopted at the General Assembly of Judges on 04.02.2002); public prosecutors (by Order No. 303/35 of the Principal State Prosecutor, dated 27.12.2007), police officers (approved by governmental decision on 10.05.2006 ; 14,000 copies of this code were published and handed out to all staff working for the police forces), bailiffs (adopted on 02.04.2004), staff working for the prison serve and customs officers (by Order No. 334 of the Prisons Services Director, dated 18.04.05), tax inspectors (adopted on 04.07.04), auditors working in the Auditor General's Department, notaries (1999), staff working at the Ministry of Information Development. (by Order No. 116 of the Minister, dated 15.10.2007). Draft codes exist for staff working at the National Bank of Moldova and the CCCEC, for members of the border police, etc.

⁵ It had already been noted in the RC Report that, according to the Moldovan authorities, "a number of state bodies have already adopted their own codes of ethics or are in the process of doing so. These include prosecutors, court officials, prison officers, customs officials and tax officials."

⁶ by Order No. 348/15 of the Principal State Prosecutor, dated 12.12.2005

⁷ by Order No. 161 of the Principal State Prosecutor, dated 28.06.06

⁸ Law No. 70 of 22.03.07, which came into force on 06.07.07

concerning corruption). At the same time, Article 269 of the Code of Criminal Procedure – which establishes the powers of the CCCEC – has been amended and supplemented⁹; sub-paragraph (2) now stipulates – thereby reflecting the changes made to public prosecutors’ powers – that criminal prosecution officers are responsible for conducting criminal investigations under the authority of the public prosecutor, thus highlighting the prosecutors’ role in directing and co-ordinating the activities of CCCEC officials.

18. GRECO notes these changes, which are a step towards improving co-ordination and interaction between public prosecutors’ departments and the police both from a general standpoint and from an operational standpoint with regard to investigations, including in the field of corruption; the fact that public prosecutors’ departments have specialised anti-corruption units at the various local and regional levels at which the CCCEC is present should further help to strengthen this interaction. It therefore would appear that the concerns expressed by the GET in the Evaluation Report and by GRECO in the RC Report have been satisfactorily addressed.
19. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation xi.

20. *GRECO recommended that the necessary financial and technical resources be allocated to the operational directorate of the Customs Department and that officers be given initial and in-service training in regulations and professional conduct.*
21. GRECO points out that in the RC Report, it concluded that the Moldovan authorities’ reference to the adoption of a code of ethics for customs officials in 2005 did not address the concerns expressed in recommendation xi.
22. The Moldovan authorities now state that the Customs Department was reorganised in 2006 and that, as a result, a Department of Internal Security (DIS) was set up within the Customs Department¹⁰ (to take over from the operational directorate which had been set up in 2001, and which in turn had replaced the Monitoring Department established in 1997). The DIS now employs 13 staff (whereas the operational directorate only had 3) and it is divided into 3 sections: an operations section, an internal investigations section and a general services section. The first two are responsible for preventing and combating in-house corruption and nepotism. Over the period 2006-July 2007, the DIS conducted several investigations, as a result of which penalties were imposed on 141 customs officials; 15 of the division’s staff and customs officials were dismissed over this period for various breaches of the rules, including the code of ethics.
23. The Moldovan authorities state that the DIS currently has the tools it requires for its work (telecommunication tools, computers, video and audio recording material, etc.). The 2007-2008 budget of the Customs Department provides for the acquisition of further special equipment.
24. An initial and in-service training system has been introduced for customs officials (and also deals with questions concerning regulations and ethics¹¹) and an (initial and in-house) training centre was opened in Chisinau in December 2007.

⁹ Law No. 264-XVI of 28.07.06, which came into force on 03.11.2006

¹⁰ Governmental decision No. 4 of 02/01/2007

¹¹ New staff are now given 6 months’ training. During the period May – November 2005, 80 new members of staff received training. They were given training in matters concerning profession regulations and ethics (Code of Ethics for Customs staff,

25. GRECO notes the new measures taken both at institutional level and with regard to training. In view of the information provided, it appears that the staff responsible for internal affairs and discipline within the Customs Department now have more resources at their disposal. The number of disciplinary cases suggests that the staff responsible for internal affairs are performing their duties in a reasonably successful manner. GRECO also welcomes the general improvements made to training and in drawing attention to the problem of corruption.
26. GRECO concludes that recommendation xi has been implemented satisfactorily.

III. CONCLUSIONS

27. In view of the above, GRECO concludes that recommendations i, viii, and xi have been implemented satisfactorily. Recommendation v continues to be partly implemented and GRECO encourages the Moldovan authorities to continue their efforts to fully implement it.
28. The adoption of the present Addendum to the Compliance Report terminates the First Evaluation Round compliance procedure in respect of Moldova.
29. Finally, GRECO invites the Moldovan authorities to publish this Addendum as soon as possible, to translate it into the national language and to make this translation public.

Customs Officials' Disciplinary Statute, Rules of Conduct and Behaviour for Customs Officials, etc.). At the end of the training they sit an exam and the results are recorded in the staff files.

With regard to in-service training, in 2007 the DIS staff held classes for the employees of 5 customs offices, at which the above-mentioned rules and regulations were discussed. 486 customs officials attended these classes. In 2006 and during the first half of 2007, seminars were also held at all customs offices with the assistance of the CCCEC and Transparency International Moldova (the issues addresses were: "the economic impact of bribes in business", "Ethical conduct in the public sector – a guaranteed way of reducing corruption" and "How to decide in conflicts of interests in public administration").