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Public

First Evaluation Round

Compliance Report on Ireland

Adopted by GRECO
at its 16th Plenary Meeting
(Strasbourg, 8-12 December 2003)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Ireland at its 7th Plenary Meeting (17-20 December 2001). This Report (Greco Eval I Rep (2001) 9E) was made public by GRECO, following authorisation by the authorities of Ireland on 20 December 2001.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Ireland submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 13 October 2003.
3. At its 13th Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Hungary and Spain to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Akos Kara on behalf of Hungary and Victor Quesada Morales on behalf of Spain. 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 16th Plenary Meeting (8-12 December 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 authorities of Ireland 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 8 recommendations to Ireland. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended developing a precise picture of the corruption situation in the country which sits securely outside of any mainstream intelligence system and detailed statistics and research to measure more clearly the extent of the corruption phenomenon in the country. This measure will assist in a proper evaluation of the response of the law-enforcement and criminal-justice mechanism to the threat of corruption.*
8. The authorities of Ireland have reported that as a general response to the recommendations made by GRECO, the Irish Police (An Garda Síochána), have established a Working Group, under the Chairmanship of a senior police official. The specific purpose of the Working Group, which held its inaugural meeting in March 2002, is to respond to the recommendations contained in the GRECO Evaluation Report insofar as they relate to the Police and, is involved in a wide-ranging consultation process within various sections of the Police. The Group consists of representatives from National Support Services, Crime Policy and Administration, Human Resources Management and Training and Development. The Working Group has initiated a number of studies to gather information and examine best practice in other Jurisdictions.
9. The Working Group, which has met on three occasions, has held discussions with staff involved in the gathering, analysis and dissemination of Intelligence at Security Section within the Police

Headquarters. It is currently developing a broad corruption index in order to provide a precise picture of the corruption situation within the State.

10. The Working Group is currently examining existing models from other Jurisdictions (the Netherlands, Spain and the United Kingdom). There are a variety of different models in existence and initial inspections would suggest that these are far from suitable for use in the Police. The Working Group is of the opinion that a further impediment to the development of a model is a general difficulty in compiling an appropriate definition of corruption. Their study is ongoing.
11. The Working Group is also conducting a study of all recent disciplinary files for instances of corruption. This study is ongoing but, as indicated to the Greco Evaluation Team in May 2001 and to the GRECO Plenary in December 2001, initial results indicate a very low level of corruption involving the Police.
12. GRECO was pleased with the long-term approach given to the development of a "precise picture of the corruption situation". GRECO noted that the scope of the Police study is limited to the Police itself – it does not address the corruption situation in the country as a whole. GRECO also noted that final results of the work were not yet available.
13. GRECO concluded that recommendation i. has been partly implemented.

Recommendation ii.

14. *GRECO recommended establishing an obligation on civil servants to report cases of corruption known to them in the exercise of their duties to the authorities in charge of detecting, investigating and prosecuting corruption offences.*
15. The authorities of Ireland have reported a number of ongoing initiatives relating to this recommendation. Firstly, draft legislation was being prepared which would, if enacted, apply to all employees including civil and public servants to protect them from adverse treatment at the hands of their employers where they report wrongdoing by the employer ("blow the whistle"); Secondly, the Standards in Public Office Commission¹ is empowered, under the Standards in Public Office Act 2001, to investigate complaints involving acts or omissions of politicians and public officials where the circumstances are such as to be inconsistent with the proper performance of the functions of the office; Thirdly, a Civil Service Code of Standards and Behaviour, to be promulgated in early 2004, sets out in a single document the principles and standards which should govern the duties and behaviour of staff in the civil service. It states that civil servants who have doubts about the legality of a particular action which they are required to

¹ The Standards in Public Office Commission is an independent body, established on 10 December 2001 by the Standards in Public Office Act 2001. It replaced the Public Offices Commission established by the Ethics in Public Office Act 1995. The Commission supervises the Ethics in Public Office Acts 1995 and 2001 insofar as they apply to office holders (for example An Taoiseach (the Prime Minister), ministers and ministers of state), the Attorney General, ministerial special advisers, senior civil servants and directors and executives of specified public bodies. The Commission provides guidelines and advice on compliance with the Ethics Acts and, where appropriate, investigates and reports in relation to possible contraventions. The Commission's supervisory role under the Electoral Acts 1997 to 2002 relates to disclosure and limiting of political donations; disclosure, limiting and reimbursement of election expenditure and exchequer funding of political parties which received at least 2% of the first preference votes at the last preceding Dáil (Lower House) general election. Under the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001 the Commission has a supervisory role in relation to exchequer payments made to leaders of political parties with members in either House of the Oireachtas (Parliament). The Commission furnishes an Annual Report on its activities to the Minister for Finance which is laid before the Houses of the Oireachtas (Parliament).

take in the course of their official duties should refer the matter to their superiors whose responsibility it is to issue a direction on the matter, following legal advice where necessary.

16. GRECO took note of the ongoing development of anti-corruption measures in civil service in Ireland. However, it noted that these steps do not fully cover the substance of recommendation ii., and so it requested from the Irish authorities to report back on the concrete steps taken in order to establish the reporting obligation of public officials in the case of corruption offences encountered by them in the course of their duties.
17. GRECO concluded that recommendation ii. has been partly implemented.

Recommendation iii.

18. *GRECO recommended launching within the law-enforcement agencies [notably An Garda Síochána (the Police) and the Public Prosecutors Office] and other private and public bodies which could be involved in the anti-corruption policies, a specific anti-corruption plan that should introduce a multi-agency focus and more proactive investigative strategies to help preventing and detecting criminal conduct or wrong doing and create a specialised body to make relevant suggestions in order to coordinate anti-corruption measures.*
19. The authorities of Ireland have reported that, firstly, the Government's current legislative programme includes proposals to amend both the Proceeds of Crime legislation, which provides for the civil forfeiture of proceeds of crime, and on the Criminal Assets Bureau Act 1996, to further target white collar crime and corruption in the public and private sectors. Secondly, the Tribunal of Inquiry into Certain Planning Matters and Payments (the Flood Tribunal) has issued a Second Interim Report, which deals with allegations concerning certain payments made to a former Government Minister. (It was recalled that the GRECO Evaluation Team met with Senior Counsel for the Tribunal - Paragraphs 2 and 16 of the Evaluation Report).
20. Arising from both these developments, an in-depth consultation process has been underway between the Department of Justice, Equality and Law Reform, the Office of the Attorney General and the Criminal Assets Bureau with a view to preparing specific amendments to existing legislation. The Government has recently approved proposals to draft such amendments (the bulk of which will be included in a Proceeds of Crime (Amendment) Bill, currently before Parliament. The proposed amendments will encompass additional measures to deal with corruption, aimed at strengthening the existing powers of the Criminal Assets Bureau, a multi-agency body, which combines police functions with those of the Office of the Revenue Commissioners and the Department of Social and Family Affairs (see Paragraph 25 of the Evaluation Report) and providing added impetus to its activities, particularly in the fight against corruption. At the same time, it is considered necessary to maintain the Constitutional balance on which the operations of the Criminal Assets Bureau, under the existing Proceeds of Crime legislation, depend.
21. The authorities have furthermore reported that certain administrative initiatives have been taken by the police and the Office of the Director of Public Prosecutions respectively. The Working Group which has been established (see recommendation i.) has identified two elements of the police corporate management system, namely the Corporate Strategy Plan and the Annual Policing Plan, as elements which should be utilised to highlight strategies to help prevent and detect criminal conduct involving corruption. Moreover, the Office of the Director of Public Prosecutions established a specialised anti-corruption unit on 10 February 2003. Its brief will include the role envisaged under the above recommendation, insofar as it relates to the

Prosecution Office. The unit comprises five members of staff.

22. GRECO took note of the multidisciplinary approach to the development of anti-corruption measures described and concluded that recommendation iii. has been implemented satisfactorily.

Recommendation iv.

23. *GRECO recommended introducing a formal informant handling policy within An Garda Síochána (the police).*
24. The authorities of Ireland have reported that a separate Working Group established within the Police chaired at Assistant Commissioner level, has issued a report in relation to this recommendation. The Commissioner has agreed the recommendations contained within the Working Group's Report and new policy guidelines have been issued. The guidelines established include :
- Agent handling procedures – these have been issued force-wide and are now also covered within detective training;
 - Audit Unit – established to examine corruption levels within the force and disseminate lessons learned;
 - Within the Criminal Assets Bureau (CAB) it has been widened to also include anti-corruption.
25. GRECO concluded that recommendation iv. has been implemented satisfactorily.

Recommendation v.

26. *GRECO recommended that An Garda Síochána (the police) review and strengthen its current approach to inspection and review to ensure firstly that the learning, which may be identified from corruption investigations, can be audited as being introduced back into the organisation and secondly that points of vulnerability within working practices and processes can be quickly identified and acted upon.*
27. The authorities of Ireland have stated that the Working Group (described under recommendation i.) has been in contact with the Director of the newly established Internal Audit Section of the Police to discuss ways to ensure that learning, which may be identified from corruption investigations, can be shown to have been, and to continue to be, acted upon and fed back into the organisation's policies and practices. The Internal Audit Section is considered to be in a position to identify any points of vulnerability within working practices and processes so as to enable weaknesses to be quickly identified and acted upon,
28. GRECO took note of the information provided, indicating that a dialogue with the Audit Section had been initiated. Any concrete results of this activity, which was in its initial stages, had not been reported.
29. GRECO concluded that recommendation v. has been implemented satisfactorily.

Recommendation vi.

30. *GRECO recommended organising, in addition to the existing initiatives, appropriate training - in particular on the typologies of corruption and the unique challenges of investigation, including its international dimension - for police officers and prosecutors dealing with corruption and connected offences.*
31. The authorities of Ireland have reported that the Police College, "Templemore", was currently reviewing the system of training in relation to corruption. Management at the College had examined the possibility of introducing a segment on corruption to all promotion courses, detective training courses (with particular emphasis on investigative units within National Support Services) and management courses. Any new programme would outline the typologies involved and identify the unique challenges involved in investigating corruption. The actual drafting of an appropriate anti-corruption training programme had recently commenced.
32. The Office of the Director of Public Prosecutions, had established a specialised anti-corruption unit. The unit's brief will include appropriate training in relation to corruption.
33. GRECO took note of the ongoing activities reported. It was looking forward to additional information with regard to any concrete changes/amendments to various training curricula concerned.
34. GRECO concluded that recommendation vi. has been partly implemented.

Recommendation vii.

35. *GRECO recommended giving consideration to whether it is preferable to initiate and carry on, with regard to serious allegations of corruption, parallel criminal Garda investigations in order to safeguard the necessary evidential material.*
36. The authorities of Ireland have stated that the legislation governing Tribunals of Inquiry provides that evidence given in the course of a Tribunal cannot be used in the course of a criminal trial. However, this does not prevent co-operation between the Tribunals of Inquiry and the Police. The Working Group (see recommendation i.) has recognised the importance of safeguarding any evidence discovered by the Tribunals that may be required at a later criminal investigation. Moreover, Officers from the Criminal Assets Bureau monitor the public sessions of the Tribunals and follow up any disclosures of corruption made in the public domain.
37. The authorities have also stated that the reports of the Tribunals may be sent to the Prosecution Service, Police or other law enforcement agencies (directly or via the Prime Ministers Office)
38. Moreover, in late 2002, the Minister for Justice, Equality and Law Reform announced that he would bring forward legislation to provide for a new statutory mechanism for investigations into matters of significant and urgent public concern. The new procedure aims to introduce a cost-effective and speedy mechanism for the collection of evidence and the establishment, in so far as is possible, of the facts about any given situation. The legislation is supposed to have general application, and could therefore be used for the purposes of an investigation relating to matters of alleged corruption, without prejudice to any criminal investigation. As in the case of Tribunals of Inquiry, the evidence given would not be admissible in any criminal or other proceedings against

the person giving evidence. Where a Tribunal of Inquiry is subsequently established, the evidence collected by the new procedure would be available to the Tribunal.

39. While the new procedure will differ in its approach by generally taking evidence in private and adopting a non-adversarial approach, there will also be an extensive range of effective powers to compel co-operation, including attendance of witnesses, handing over of documents and powers to enter and search premises, where voluntary co-operation is not forthcoming. The combined effect should be a more speedy and cost-effective process. The draft legislation was before Parliament.
40. GRECO took note of the information provided. It was of the opinion that the Irish authorities had given consideration to the problem raised in recommendation vii. and, that some improvements of the system with tribunals were underway.
41. GRECO concluded that recommendation vii. has been implemented satisfactorily.

Recommendation viii.

42. *GRECO recommended considering assigning to the Government Contracts Committee more powers in order to meet concerns related to the lack of a central authority or body responsible for all public procurement procedures in Ireland, or to examine the possibility to establish another central and independent body responsible solely with the public procurement procedure.*
43. The authorities of Ireland have reported that the regulation and operation of public procurement in Ireland was undergoing significant change. In April 2002 the Government agreed to the implementation of a national strategy which involves the restructuring of the public procurement function. The aim is to introduce a national co-ordinated and integrated system which will facilitate e-Procurement across the non-commercial public sector. In July 2002, a National Public Procurement Policy Unit, situated in the Department of Finance, was established. The Government Contracts Committee is being restructured to make it more widely representative and its focus is being broadened to concentrate on the wider public sector procurement issues. Up-to-date comprehensive guidance is to be developed for dissemination to all public bodies.
44. GRECO concluded that recommendation viii. has been implemented satisfactorily.

III. CONCLUSIONS

45. GRECO reached the overall conclusion that Ireland has implemented most of the recommendations of the First Round Evaluation Report.
46. Recommendations iii., iv., v., vii. and viii. have been implemented satisfactorily and recommendations i., ii. and vi. have been partly implemented.
47. GRECO invites the Head of the delegation of Ireland to provide additional information by 30 June 2005 on the progress of the implementation of recommendations i., ii. and vi.