

**DIRECTORATE GENERAL I – LEGAL AFFAIRS  
DEPARTMENT OF CRIME PROBLEMS**

Strasbourg, 9 July 2003

**Public**  
**Greco RC-I (2003) 6E**

## **First Evaluation Round**

### **Compliance Report on Estonia**

Adopted by GRECO  
at its 14<sup>th</sup> Plenary Meeting  
(Strasbourg, 7-11 July 2003)

## **I. INTRODUCTION**

1. GRECO adopted the First Round Evaluation Report on Estonia at its 6<sup>th</sup> Plenary Meeting (10-14 September 2001). This Report (Greco Eval I Rep (2001) 7E) was made public by GRECO, following authorisation by the Estonian authorities on 14 September 2001.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the Estonian authorities submitted their Situation Report (RS-report) on the measures taken to follow the recommendations on 31 March 2003 (and an updated version on 14 May 2003. Additional information was also submitted after that date following the request made by the Rapporteurs.)
3. At its 13<sup>th</sup> Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Bulgaria and Sweden to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Georgi RUPCHEV on behalf of Bulgaria and Mr Lennart KLACKENBERG on behalf of Sweden. 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 14<sup>th</sup> Plenary Meeting (7-11 July 2003).
5. Under Article 15 paragraph 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 Estonian authorities and, wherever possible, their effectiveness in order to comply with the recommendations contained in the Evaluation Report.<sup>1</sup>

## **II. ANALYSIS**

6. It was recalled that GRECO in its Evaluation Report addressed 12 recommendations to Estonia. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

7. *GRECO recommended Estonia to make the existing efforts against corruption more coherent and more effective. Governmental action plans should aim at developing early detection strategies; enhancing research on infected and vulnerable sectors; promoting implementation of the Code of conduct and the principle of mandatory reporting among all law enforcement officers; restoring a proper control over the most affected sectors and encouraging the use of multidiscipline task forces able to formalise strategic proposals. Moreover, such global initiative should support awareness and understanding raising events about the impact of corruption, review recruitment, salary schemes, administrative decision-making process and establish a working group responsibility involving all agencies and institutions concerned with the fight against corruption and entrusting it with the task of coordinating global anti-corruption policies.*
8. The Estonian authorities reported that by virtue of the Government of the Republic Order (GRO) of 11 June 2002, the Government established a pluridisciplinary Anti-Corruption Commission (ACC) which fulfilled its tasks and was dissolved on 25 March 2003. Its main tasks were to give advice to the Government and to prepare a Corruption Prevention National Programme (CPNP). The CPNP was adopted on 25 March 2003. The CPNP contains a list of recommendations addressed to the legislative and to the executive powers, including to law enforcement agencies,

---

<sup>1</sup> See document Greco RS-I (2003) 6E.

such as: to organise studies in the corruption-subject fields; to organise ethics; to update the terms of reference of the ACC, etc.<sup>2</sup> The bodies concerned by the recommendations must elaborate by the year 2004 concrete "action plans" with the objectives, activities, persons responsible and sources of financing. On April 10<sup>th</sup> 2003 a new Government was appointed. On May 13<sup>th</sup> the new government decided to create a new anti-corruption commission at the ministerial level (ACCM), headed by the Minister of Justice and including the ministers of internal affairs, of economic affairs, of finance and a state secretary. It shall co-ordinate the anti-corruption policy and give basic guidelines and statements. It foresees to establish a new Anti-corruption Expert Group. As a result of the parliamentary elections of March 2003, the draft Law on Civil Service was withdrawn from the parliamentary agenda but the new government is committed to modernise the Estonian civil service. It envisages the adoption of new Civil Service Act that provides transparent and motivating salary system, guarantees a clear division between political and administrative management and provides regulations for the open of recruitment procedures. At present, there are discussions within the coalition parties how to implement the general principles for a modern civil service. According to the government working plan, negotiations should be finalised by the 1<sup>st</sup> of October 2003.

9. GRECO took note of the measures adopted in order to make the existing anti-corruption activities more coherent and effective. It acknowledged that the establishment of pluridisciplinary commissions and, the preparation of the CPNP are very positive steps. It noted, however, that by the time the Rapporteurs were drafting the present report, the Estonian authorities still had to adopt and implement concrete "action plans" in order to comply with the recommendations made by GRECO in the first Evaluation Round as well as in the CPNP. It was already planned to extend the current functions of the Anti-Corruption Commission, in order to fulfil the tasks enumerated in GRECO's Recommendations. GRECO also noted that the principle of mandatory reporting among all law enforcement officers is not clearly established in the CPNP. Finally, the CPNP does not refer to the need to review recruitment, salary schemes and administrative decision-making process. This was mentioned under the recommendations to the executive power, that Ministry of Justice should elaborate legislative amendments based on the results of the anti-corruption project, carried out by the Law Centre. Reforms are an ongoing process and notable progress seems to be made. GRECO considered that Estonia should continue to make the existing efforts against corruption more coherent and more effective as is envisaged in the "action plans" to be adopted. Therefore, GRECO invited the Estonian authorities to submit additional information on the "action plans" to be adopted with the aim to implementing GRECO's first Round Recommendations and the CPNP.

10. GRECO concluded that recommendation i. has been partly implemented.

**Recommendation ii.**

11. *GRECO recommended to set up a working group of police, prosecutors, judges and other experts who would design and implement a comprehensive and effective master training plan for the new legislation concerning serious crime.*
12. The Estonian authorities reported that:
- The Public Prosecutor's Office and the Service Public Academy have elaborated a refresher course plan, which covers the economic crimes and related offences. The training had started and had been considered successful (Appendix II).

---

<sup>2</sup> See Appendix I in document Greco RC-I (2003) 6E Appendices.

- Following the adoption of the Courts Act of 29 July 2002, the Estonian Law Centre deals thoroughly with the planning of the judges' training programmes. From 1<sup>st</sup> January 2003, the resources for judges' training are provided in the budget of the Supreme Court. There have been 165 prosecutors and 151 judges trained on penal law (including economic crimes and offences related to office) from 2001 to 2002.
13. GRECO took note of the measures adopted to establish training in economic crime matters for police officers, prosecutors, judges and other experts dealing with corruption cases. GRECO noted that specific training in corruption matters had not yet been put in place for judges. Nevertheless, GRECO was confident that the measures mentioned by the Estonian authorities could contribute to increasing the skills of the persons involved in the fight against corruption as well as to provide necessary training on serious crimes.
14. GRECO concluded that recommendation ii. has been dealt with in a satisfactory manner.

#### **Recommendation iii.**

15. *GRECO recommended that the Police Board should intensify the work with the Riigikogu and other bodies intervening in the detection of corruption and economic/financial crimes in order to streamline the current Police Prefecture system to make it more responsive to the investigation of local corruption. Such a dialogue shall also facilitate the coordination work by the Security Police (as foreseen by the Estonian National Programme for the EU acquis) and the transfer of know how to the benefit of police prefectures. Specialised training of local police prefectures would be needed.*
16. The Estonian authorities reported that the local police prefectures are responsible for investigating bribery of local officials. According to the Code of Criminal Procedure (§ 105 section 1), pre-trial investigation (incl. corruption offences) is conducted by officials from the Police Board, the Central Criminal Police and police prefectures who have the authority over preliminary investigations. Corruption-linked tax fraud is investigated by Central Crime Police. They work in close co-operation with the Tax Fraud Investigation Centre (TAFIC) of the Estonian Tax Board. Officials from the Tax Board have investigative responsibility in tax fraud offences specified in §§ 386 (fraudulent miscalculation of tax), 389 (failure to withhold tax) and 390 (obstruction of activities of tax authority) of the Penal Code and other offences, if the offences have been committed in connection with violation of tax liabilities or receipt of income from non-payment of taxes. If tax fraud is linked with corruption, local investigators are also involved in investigations. The measures adopted to improve the skills of the local police prefectures in their fight against corruption at local level include supplementary/continuing education at the Public Service Academy, where it is part of the economic crimes curriculum. Officials from local police prefectures are regularly sent there.
17. GRECO took note of the Estonian authorities' reply. It noted that the Estonian authorities did not envisage assigning to the local police prefectures the exclusive responsibility over investigation of corruption offences involving local authorities but aims at facilitating the co-ordination with the Police Board, the Central Criminal Police and the Tax Fraud Investigation Centre.
18. GRECO concluded that recommendation iii. has been implemented satisfactorily.

#### **Recommendation iv.**

19. *GRECO recommended that the Economic Crime unit of the Central Criminal Police should also be given a greater specialisation in corruption matters. Smaller units reporting to the Central Criminal Police should also be formed in the prefectures with training and equipment to address local corruption offences linked with economic crime (including public procurement, public accounting and finances etc.).*
20. The Estonian authorities reported that the Ministry of Internal Affairs paid particular attention to speeding criminal proceedings in corruption cases and to provide adequate reaction to corruption cases, especially upon proceeding criminal offences dangerous to society, such as those associated with organised crime. To improve the skills of the Economic Crime Unit and Central Criminal Police in their fight against corruption officials are regularly sent to the supplementary/continuing education at the Public Service Academy, where it is part of the economic crimes curriculum. In addition to that various forms of schooling is received abroad, FBI has among others been one of the organisers of such schoolings.
21. GRECO took note of the Estonian authorities' reply. As already mentioned above, the Public Prosecutor's Office and the Public Service Academy have elaborated a refresher course plan, which covers the economic crimes and related offences.
22. GRECO concluded that recommendation iv. has been implemented satisfactorily.

#### **Recommendation v.**

23. *GRECO recommended to initiate an immediate review by a high level working group of the current relationship between Customs, EBG but also Police, including coordination, assistance, training etc. This group should make specific and binding recommendations both interim and long term to improve substantially the coordination and cooperation between the two bodies.*
24. The Estonian authorities reported that following the first evaluation round, the Customs Board concluded co-operation agreements with the Police Board, with the Security Police Board and with the Border Guard Administration. These agreements determine detailed co-operation in the field of customs and border control, construction and administration of the border points, joint use of information systems and databases, procedure of criminal matters, performance of joint operations, training etc. Under the agreement the General Directors meet at least once a year for drawing conclusions and for determining further development plans. Following GRECO's recommendation, the quality of the co-operation and the co-ordination established between the police and the customs, the customs and the border guard when dealing with corruption matters has been improved.
25. GRECO took note of the measures adopted. It considered that the measures adopted are proper to improve the relationship between these bodies as well as the efficiency of the detection of corruption cases in their fields of competence.
26. GRECO concluded that recommendation v. has been implemented satisfactorily.

#### **Recommendation vi.**

27. *GRECO recommended to strengthen the efforts in favour of a modernisation of the EBG in terms of premises, training, anti-corruption policies and investigations, management, etc.*
28. The Estonian authorities reported that the first priority for the Estonian Border Guard Administration was to complete the construction of the eastern border. It established a Coastal Surveillance System and Coastal Surveillance Information System (in the formation phase), updated the education system of the Border Guard, started an education and supplementary education programme in the field of guarding the EU external border and passport checks for the complete staff. On 9 September 2002 the first part of the Border Guard School of the Border Guard Board was accomplished.
29. Moreover, the EBG established an Internal Control Department on July 07, 2002 by virtue of the Regulation of the Minister of Interior No 242 of May 31, 2002. It is directly subordinated to the Director General of the Border Guard Administration and is in charge, among others, of the detection of corruption cases. In addition to that, the Heads of Border-crossing points are also detecting corruption. The EBG concluded co-operation agreements with the Police Board on November 11, 2002 and with the Security Police Board in March 2003. They provide for exchange of information, including information on the illegal activity of their officials (i.e. joint actions in solving corruption cases). The Boarder Guard has been constantly audited by the Ministry of Finances, by the Ministry of the Interior and by the State Audit Office, but no corruption cases were ever detected. Presentation of the economic interests' declaration is compulsory to everybody; the declarations are checked by special officials in each boarder guard region and in the Border Guard Administration. The Boarder Guard co-operates in combating cross-border organised crime with the boarder guards of all neighbouring countries as well as with law-enforcement authorities from Germany, Norway, Sweden, Great Britain, USA, Belgium, Holland, Lithuania, Ukraine and Byelorussia. The materials discovered in the course of an investigation are forwarded, as provided for by Law, either to the Central Criminal Police or to the Security Police Board.
30. GRECO took note of the information supplied by the Estonian authorities. It welcomed the progress made, such as modernising buildings and other facilities for the Boarder Guard as well as in establishing an Internal Control Department. Nevertheless, even if no corruption cases were ever detected, the Estonian authorities should continue to strengthen their efforts in favour of more proactive anti-corruption policies and investigations.
31. GRECO concluded that recommendation vi. has been implemented satisfactorily.

#### **Recommendation vii.**

32. *GRECO recommended to establish an institutionalised training structure (school of magistrates) for new judges and prosecutors who have passed the selection and to introduce a sound and coherent training curriculum. This School would also provide on-going training.*
33. The Estonian authorities reported that the Estonian Law Centre, which was established following the first evaluation round, organises training and refresher courses for judges and prosecutors.
34. GRECO took note of the information supplied by the Estonian authorities and welcomed the progress made by the establishment of the Estonian Law Centre for an appropriate training of all

magistrates. The training for judges in penal law is ongoing and will be continued in 2004. It includes issues concerning corruption. Nevertheless, GRECO was told that no special corruption training is foreseen in 2003 or 2004. While GRECO welcomed the establishment of the Estonian Law Centre, it recalled that Recommendation vii deals with the general problem of the creation of an institutionalised training school for magistrates as a precondition for specialised training (in the field of fighting against corruption). Therefore, the Estonian authorities may wish to send to GRECO additional information regarding the training in corruption matters provided for magistrates in the programme of the Law Centre.

35. GRECO concluded the recommendation vii. has been dealt with in a satisfactory manner.

**Recommendation viii.**

36. *GRECO recommended to envisage the creation of a higher number of judges and prosecutors specialised in economic crime matters, including corruption.*

37. The Estonian authorities reported that:

- Under the new Courts Act (Appendix III), the division of work of the judges is provided in a "division of tasks plan". It has not been considered appropriate to create a higher number of judges specialised in economic crime matters because of the very limited number of offences of this kind.
- The Prosecutor Office extended its co-operation with investigation authorities, with the Tax Fraud Investigation Centre and with the Competition Board and Financial Supervision Inspection. There are 7 specialised prosecutors in the Tallinn Prosecutor's Office (from the 3 foreseen during the first round evaluation visit).

38. GRECO took note of the information supplied by the Estonian authorities. It welcomed the improvements made in the specialisation of a number of prosecutors. Besides, it was convinced that if specific training could be provided by the Estonian Law Centre in corruption matters, this would contribute to increasing the skills of the judges who deal with this kind of offences.

39. GRECO concluded that recommendation viii. has been dealt with in a satisfactory manner.

**Recommendation ix.**

40. *GRECO recommended to familiarise public decision makers with the purposes of audit and to re-examine the role of the SAO and Financial Control Department (FCD) of the Ministry of Finance and to submit local governments to appropriate auditing procedures.*

41. The Estonian authorities reported that:

- The main role of the State Audit Office (SAO) is to improve the control mechanisms and transparency over public authorities in risk sectors (such as payment of subsidies, granting activity licences, public procurement etc.). It shall carry out audits with the aim to offer confidence to the Parliament and to the public at large that the resources of the public sector are used legally and effectively. Most of the higher control authorities do not consider that establishment of concrete corruption cases is their main priority. The SAO has repeatedly delivered materials to the law enforcement authorities to decide upon institution of criminal proceedings.

- One of the consistent and yearlong functions of the SAO has been to inform the heads of public sector of the nature and efficiency of audit.
  - In respect of auditing of local governments the competence of SAO is restricted (Appendix IV). However, the SAO recommended the Riigikogu to expand the scope of the audits, carried out annually by private auditors. The audit should not only give estimation to the validity of the financial statement, but also to the legality of the transactions supporting the accounts and to the reliability of management.
42. GRECO took note of the information supplied by the Estonian authorities. It welcomed the improvements made in order to familiarise public decision makers with the purposes of audit and with regard to the role of the SAO. It also welcomed the recommendations made by the SAO with regard to the extension of the scope and the efficiency of local authorities' auditing that are to be considered by the anti-corruption commission and was confident that the necessary measures to be adopted should contribute to submit local authorities to appropriate auditing procedures. GRECO invited the Estonian authorities to submit additional information on the measures to be adopted contributing to submit local authorities to appropriate auditing procedures.
43. GRECO took note of the positive measures underway as described by the Estonian authorities. It considered that these measures, once implemented, would comply in theory with recommendation ix. However, at present, it concluded that recommendation ix. has been partly implemented.

#### **Recommendation x.**

44. *GRECO recommended urgently strengthen and improve the application of the Anti-corruption Act as concerns the control over declarations of interests and other forms of limitations upon conflicting interests. The Parliamentary Anti-Corruption Committee should be strengthened in order to carry out its tasks effectively, including the overall monitoring of the Anti-Corruption Act's application.*
45. The Estonian authorities reported that:
- The Parliamentary Anti-Corruption Committee (PACC) considered that the Anti-corruption Act is already rather strict. However, as already mentioned before, the Anti-Corruption Commission recommended that it is being given a wider mandate in order to propose, where necessary, amendments to the anti-corruption legislation, and to assess all draft laws from the aspect of increased or reduced corruption risks.
  - The PACC has had efficient co-operation relations with the Auditor General. Depositing and checking declarations of economic interests do not require separate budgetary resources and the analysis of the data collected is already performed on a regular basis: once in a year. The PACC verifies the accuracy of the information provided in the declarations. It has the right to make enquiries. Anybody can apply to it. It shall initiate a supervision procedure if an official is suspected of corruption. A false declaration was detected only once in the last 4 years. The PACC intends to harmonise the different methods used in order to check the declarations. It is necessary to review the declaration form in the Riigikogu (some data fields need to be specified).
46. GRECO took note of the reply made by the Estonian authorities. According to them, checks of declarations of economic interests are performed now on a regular basis, every time the PACC verifies the accuracy of the information in a declaration and has the obligation to do so if an official is suspected of corruption (Anti-corruption Act § 16 section 1). GRECO welcomed the

intention of the authorities to harmonise the different methods used in order to check the declarations of economic interest and other forms of limitations upon conflicting interests made by higher rank public officials in risky sectors and to adapt the declaration form for the parliamentarians.

47. GRECO concluded that recommendation x. has been dealt with in a satisfactory manner.

**Recommendation xi.**

48. *GRECO recommended to free the PPO from improper influences and to review the decision-making process. The PPO should be more actively involved in proactive work (e.g. typologies summaries) and purveying of specialised training for members of other agencies to support the new burden of work of administrative courts.*

49. The Estonian authorities replied that:

- While under the Ministry of Finance, the Public Procurement Office (PPO) is an independent body in its supervisory activity and when making decisions (the Director General is appointed by the Minister of finances; accounting and financial services and also IT management are performed by the Ministry. PPO is more independent when managing "pre-court procedures" and in carrying out state supervision functions).
- Article 11 and Chapter 10 of the Public Procurement Act detail the supervisory process. This Act had entered into force on 1<sup>st</sup> April 2001 (a few days before the first round evaluation visit had taken place). It will be brought into conformity with the EU directives by the third quarter-year of 2003 but in any case, the Draft Public Procurement Amendment Act does not introduce any changes concerning the tasks, obligations and rights of the PPO.
- Public procurement training has mostly been organised by the Estonian Institute of Administration Management and by training companies. Some officials from the PPO attended such sessions as lecturers. After the Act is being revised, the Ministry of Finance plans to organise training for the contracting authorities and to work out back-up materials for them.

50. GRECO took note of the reply made by the Estonian authorities. It welcomed the measures taken in order to provide training in public procurement procedures. Nevertheless, GRECO would have welcomed further detailed information on the measures aiming at improving the functioning and independence of the PPO as well as at banning from it any kind of political interference, as required in the first round report. Moreover, it was not clear whether the legislation of April 2001 and the subsequent increase of jurisdictional responsibility in the annulment of tenders and execution of contracts had somehow improved the situation or not. Therefore, GRECO invited the Estonian authorities to submit additional information with regard to the functioning and independence of the PPO as well as with regard to the new Public Procurement Act to be adopted by the end of 2003.

51. GRECO concluded that recommendation xi. has been partly implemented.

**Recommendation xii.**

52. *GRECO recommended to secure that in case of judges the decision on inviolability is free from political influence and that the decision is based on the request of the prosecutor and on the proposal of the Supreme Court.*

53. The Estonian authorities recalled the systems of immunities as already described in paragraphs 91-97 of the First Round Evaluation report confirming the assessment made in paragraphs 143-144, i.e. that the procedure for lifting the immunity of judges involved either the President of the Republic or the Riigikogu according to the Estonian Constitution. Moreover, they reported that, the new Courts Act of 19 June 2002 (Appendix III) established explicit rules on bringing criminal charges against judges of first instance and second instance. These rules aim at securing that there is no political influence on the decision to lift the immunity and based on the request of the prosecutor and on the proposal of the Supreme Court. The Estonian authorities finally reported a recent case where the immunity of a judge of a court of the first instance was lifted on 25th November 2002, following the consent given by President of Republic by decree No 272.
54. GRECO took note of the reply made by the Estonian authorities. It welcomed the amendments introduced by virtue of the new Courts Act. Therefore, even if there is still a need to obtain the consent of the Parliament in order to bring charges against the Chief Justice and Justices or of the president of the Republic in order to bring charges against a judge, the situation is much more clear following this amendment and the procedure much more detailed, foreseeable in the new Act. The Estonian authorities may wish to submit to GRECO additional information on the application of the new legislation in practice.
55. GRECO concluded that recommendation xii. has been dealt with in a satisfactory manner.

### **III. CONCLUSIONS**

56. GRECO reached the overall conclusion that Estonia has implemented most of the recommendations of the First Round Evaluation Report.
57. Recommendations iii., iv., v. and vi. have been implemented satisfactorily. Recommendations ii., vii., viii., x. and xii. have been dealt with in a satisfactory manner. Recommendations i., ix. and xi. have been partly implemented.
58. GRECO invited the Estonian authorities to submit to it additional information as well as, where appropriate, the supporting legislation relating to the implementation of recommendations i., ix. and xi.
59. Moreover, the Estonian authorities might wish to send to GRECO the additional information mentioned in the parts of the report relating to recommendations vii. and xii.
60. GRECO invited the Head of the Estonian delegation to submit an additional report on the information required in paragraph 58 by 31 December 2004.