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## Preventing corruption in Slovenia

Written question No 525 to the Committee of Ministers

Reply from the Committee of Ministers  
adopted at the 1010<sup>th</sup> meeting of the Ministers' Deputies (7 November 2007)

### I. Written Question No. 525 by Mr Bartumeu Cassany (Doc. 11290)

Observing that GRECO had taken note of the positive measures adopted by the Slovenian authorities following the recommendations made during its first evaluation round (see GRECO RC-I (2003) 1E), and that it had taken the view that the setting up in October 2004 of a Commission for the Prevention of Corruption, an independent body answering solely to Parliament in pursuance of the Prevention of Corruption Act (No. 2-71/2004), met the requirements of one of these recommendations;

Noting that certain legislative developments had nonetheless caused concern to GRECO (see Addendum to GRECO RC-I (2003) 1E and Addendum II Rev. 2), since the Act on Incompatibility of Public Function with Profit-Making Activities (ZNOJF-1), adopted on 10 February 2006, provided for the Commission for the Prevention of Corruption to be superseded by a parliamentary committee responsible for monitoring public officials' financial declarations;

Noting that the Slovenian Constitutional Court, before which a complaint was lodged that this law *ipso facto* abolished the Commission for the Prevention of Corruption, without providing similar guarantees of independence to the parliamentary committee superseding it, declared the law unconstitutional on 29 March 2007;

Mr Bartumeu Cassany

To ask the Committee of Ministers

to inform the Assembly what the Slovenian authorities' intentions are in respect of the future of Slovenia's Commission for the Prevention of Corruption and of the guarantees with which they intend to provide it in terms of independence.

### II. Reply by the Committee of Ministers

The Committee of Ministers has carefully studied Written Question No. 525 by Mr Bartumeau Cassany and has consulted the Slovenian authorities concerning the matter raised therein. Regarding the issues raised by the Honourable Parliamentarian more generally, the Committee of Ministers would like to recall that Guiding Principle 7 of the Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption refers to the need to promote the specialisation of persons or bodies in charge of fighting corruption and to provide them with appropriate means and training to perform their tasks.

2. The Committee of Ministers further notes that the creation of specialised and independent bodies entrusted, *inter alia*, with the co-ordination of anti-corruption policies is a requirement that is not only recognised in the Council of Europe, but also in a wider international context. In this connection, the United Nations Convention against Corruption (UNCAC), adopted on 9 December 2003, requires in its Article 6 the creation of a preventive anti-corruption body or bodies, which is to be responsible to (1) implement preventive anti-corruption policies and, where appropriate, oversee and co-ordinate the implementation of those policies, and (2) increase and disseminate knowledge about the prevention of corruption. Furthermore, it requires that the specialised bodies are granted with the necessary independence, resources and specialised staff to carry out their functions effectively and free from any undue influence.

3. The Committee of Ministers recalls that the creation of a special body for the overall co-ordination of the anti-corruption policy in Slovenia was recommended by the Group of States against Corruption (GRECO) during its First Evaluation Round (Greco Eval I Rep (2000) 3E). GRECO further considered in its compliance procedure that Slovenia had met the recommendation through the establishment of the Commission for the Prevention of Corruption (Greco RC-I (2003) 1E).

4. In December 2005, GRECO was informed of the intention of the Slovenian authorities to abolish the Commission for the Prevention of Corruption and expressed its concern in the First Addendum to the Compliance Report on Slovenia (Greco RC-I (2003) 1E Addendum), that such a move could have a negative impact on the overall co-ordination of anti-corruption policy in Slovenia. The authorities were therefore requested to provide further information, by 1 March 2006, on the planned dismantling of the Commission for the Prevention of Corruption, and notably on the reasons for the move and whether the important tasks of the Commission would be continued or discontinued. In March 2006, GRECO adopted the Second Addendum to the Compliance Report (Greco RC-I (2003) 1E Addendum II Revised 2) and thus terminated the First Round compliance procedure in respect of Slovenia. GRECO noted the envisaged reform through the adoption of the Incompatibility Act, which entrusts a Parliamentary Commission with the review of public officials' financial declarations. GRECO nevertheless indicated that it would have appreciated being kept informed about the concrete steps taken to ensure co-ordination of anti-corruption policy in Slovenia in the future, i.e. after the Commission for the Prevention of Corruption had been effectively dismantled.

5. The Permanent Representation of Slovenia to the Council of Europe has supplied additional information to the Committee of Ministers, illustrating that Decision U-I-57/06-28 of the Constitutional Court of the Republic of Slovenia of 29 March 2007, referred to also by the member of the Parliamentary Assembly, specifies that certain parts of the Incompatibility Act (Ur. l. RS, No. 20/06) are not in conformity with the Constitution. The Constitutional Court has suspended the implementation of the Incompatibility Act and ruled that the provisions of the Prevention of Corruption Act apply until the final decision is made. The decision requires the National Assembly to remedy the established unconstitutionality within six months. Until the established unconstitutionality has been remedied, the provisions of the Prevention of Corruption Act, except for certain articles (provisions relating to the formulation of integrity plans), will apply. The decision of the Constitutional Court emphasises that the legislator is responsible for remedying the established unconstitutionality as soon as possible and ensuring the implementation of the Incompatibility Act. In this context, the government has been drawing up amendments to the Incompatibility Act in accordance with guidelines contained in the decision of the Constitutional Court.

6. The Permanent Representation of Slovenia has also informed the Committee of Ministers that it has been planning to ratify the UN Convention against Corruption. Representatives of the Republic of Slovenia have been in contact with representatives of those countries which have already ratified the Convention on the Fight against Corruption.

7. Finally, the Committee of Ministers would like to recall that Slovenia continues to report directly on this matter to the Group of States against Corruption (GRECO), which is the monitoring body of the Council of Europe anti-corruption standards.