



DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS

GREECE: PHASE 2

**REPORT ON THE APPLICATION OF THE CONVENTION ON
COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN
INTERNATIONAL BUSINESS TRANSACTIONS
AND THE 1997 RECOMMENDATION ON COMBATING BRIBERY
IN INTERNATIONAL BUSINESS TRANSACTIONS**

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International Business Transactions on 26 April 2005.*

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A. INTRODUCTION

1. The On-Site Visit

1. From 4 to 8 October 2004, a team from the OECD Working Group on Bribery in International Business Transactions (Working Group) visited Athens, Greece as part of the Phase 2 self- and mutual evaluation of the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Convention) and the 1997 Revised Recommendation (the Revised Recommendation). The purpose of the visit was to examine Greece's structures for enforcing the laws and rules implementing these OECD instruments, and to assess their application in practice.

2. The Greek authorities were co-operative during the entire Phase 2 examination process. Prior to the visit, Greece responded to the Phase 2 Questionnaire and a supplemental questionnaire. Greece also provided relevant legislation and case law. The examination team analysed these materials and conducted independent research to obtain additional points of view. During the visit, Greece provided the examination team with sufficient access to government representatives and the meetings were well-attended, particularly by the Greek private sector.¹ Following the visit, the Greek authorities continued to provide additional information.

3. The examination team expresses its appreciation of the hard work and professionalism of the Greek authorities throughout the examination process.

2. General Observations

(a) Economic System

4. As of 2001, Greece had a population of almost 11 million, with roughly 3.2 million in the Athens Metropolitan Area and 1.0 million in Thessaloniki.² The country borders Albania, Bulgaria, Turkey and the Former Yugoslav Republic of Macedonia.³

5. Greece's mixed capitalist economy is the 19th largest of the 30 OECD countries. Its per capita gross domestic product (GDP) ranks 23rd in the OECD and 36th in the world. Tourism accounts for 15% of GDP, while the contribution of agriculture, forestry and fisheries to GDP is the largest in the European Union (EU) in relative terms.⁴ The Greek government reports that the informal economy is the largest in

¹ See the List of Participants in the Annex 1.

² National Statistical Service of Greece, 2001 Census; OECD (2004), *Territorial Review of Athens, Greece*, OECD, Paris, p. 55; OECD (2002), *Economic Surveys: Greece*, OECD, Paris, p. 7.

³ U.S. Central Intelligence Agency (11 May 2004), *The World Fact Book*, U.S. Central Intelligence Agency, Washington, D.C.

⁴ GDP measured on a purchasing power parity basis. OECD (2004), *OECD in Figures*, OECD, Paris, pp. 12-13; OECD (May 2004), *OECD Main Economic Indicators*, OECD, Paris; The World Bank (April 2004), *World Development Indicators Database*, The World Bank; The Economist Intelligence Unit (2004), *Country Profile – Greece*, The Economist Intelligence Unit, London, p. 34.

Europe and accounts for 20-40% of the economic output of Athens.⁵ Another report places the national figure at 25-30%.⁶

6. In terms of trade, the Greek economy is focused mainly on the domestic market, thus leaving the country with a sizeable trade deficit. Trade amounts to roughly a quarter of GDP, which is similar to the EU average but lower than the average for smaller countries. From 1997 to 2002, exports fell by an annual average of 1.5% while imports increased by an annual average of 2.0%.⁷ Recent data point to a marked decline in nominal exports to major OECD countries and the euro area. This was partly offset by a continuation of buoyant exports to the Balkans, central Europe, the former Soviet Union and other non-OECD countries.⁸

7. In 2002, Greece's major exports included manufactured goods (20.55%), miscellaneous manufactured articles (17.86%), food and live animals (16.88%), machinery and transport equipment (13.25%), and chemicals and related products (9.78%). Major imports were machinery and transport equipment (32.89%), manufactured goods (14.68%), mineral fuels, lubricants and related materials (13.88%), miscellaneous manufactured articles (12.14%), and chemicals and related products (10.99%).⁹ In addition, Greece has the world's largest beneficially-owned shipping fleet (approximately one in six of all deadweight tonnes afloat).¹⁰

8. In terms of foreign direct investment (FDI), Greek companies have invested extensively in the Balkans, Central Eastern Europe and the former Soviet Union in areas including banking, telecommunications, construction, food and retail.¹¹ Greece is also actively integrating its energy infrastructure with that of the Balkan states and aims to become the major Balkan energy hub by 2010.¹²

⁵ OECD (2004), *Territorial Review of Athens, Greece*, OECD, Paris, pp. 56 and 83.

⁶ The Economist Intelligence Unit (2004), *Country Profile – Greece*, The Economist Intelligence Unit, London, pp. 37 and 42.

⁷ OECD (2004), *Territorial Review of Athens, Greece*, OECD, Paris, p. 78; OECD (2002), *Economic Survey of Greece*, OECD, Paris, p. 102; OECD (May 2004), *OECD Main Economic Indicators*, OECD, Paris.

⁸ In 2002 these countries accounted for 33.4% of the total value of exports (OECD (2002), *Economic Survey of Greece*, Paris, p. 28; The Economist Intelligence Unit (2004), *Country Profile – Greece*, The Economist Intelligence Unit, London, p. 55). In 2002, Greece's major export partners in commodities were (USD): (1) Germany (1.123 bn), (2) Italy (914 m), (3) United Kingdom (670 m), (4) Bulgaria (577 m), (5) United States (570 m), (6) Cyprus (511 m), (7) France (384 m), (8) Turkey (362 m), (9) Former Yugoslav Republic of Macedonia (341 m), (10) Albania (335 m). Its major import partners in commodities were (USD billion): (1) Germany (3.962), (2) Italy (3.739), (3) Russian Federation (2.386), (4) South Korea (1.938), (5) France (1.848), (6) Netherlands (1.813), (7) United States (1.529), (8) Belgium (1.416), (9) United Kingdom (1.323), (10) Spain (1.253) (OECD Database).

⁹ OECD Database.

¹⁰ The Economist Intelligence Unit (2004), *Country Profile – Greece*, The Economist Intelligence Unit, London, p. 25.

¹¹ Kamaras, A. (2001), *A Capitalist Diaspora: The Greeks in the Balkans*, Hellenic Observatory (London), pp. 41-42; The Economist (10 October 2002), "Good Neighbours", The Economist, London.

¹² Energy Information Administration (4 August 2003), *Country Analysis Briefs - Greece*, U.S. Department of Energy, www.eia.doe.gov. Top sources of inward FDI in 2001 were (USD million): (1) Portugal (951.5); (2) Netherlands (300.3); (3) United Kingdom (224.2); (4) Belgium-Luxembourg (112.7); (5) Denmark (84.5). Top destinations of outward FDI in 2001 were (USD million): (1) United States (195.4); (2) United Kingdom (136); (3) Germany (56.4); (4) Bulgaria (38.1); (5) Hong Kong, China (15.9) (OECD Database; last update 9 April 2002).

9. Small and medium-sized enterprises (SMEs) play a significant role in the Greek economy, constituting almost 99% of Greek businesses. Greek SMEs produce 19% of exports and contribute up to 12% of GDP. Based on a 1998 census, 96.3% out of 509 000 enterprises had fewer than nine employees. Greek SMEs comprise both traditional and modern enterprises and are characterised by very different structural and operational patterns.¹³ In addition to approximately 20 large enterprises, there are 3 500 SMEs active in the Balkans. Seventy-five percent of these firms operate in northern Greece.¹⁴

(b) Political and Legal System

10. Greece is a parliamentary republic. The legislative branch consists of a 300-seat unicameral Parliament (*Vouli ton Ellinon*) whose members are elected by direct popular vote to four-year terms. The Parliament has exclusive jurisdiction to enact criminal laws. The chief of state is a President who is elected to a five-year term by Parliament. The executive branch of government is led by an elected Prime Minister. The Council of Ministers (cabinet) is appointed by the President on the recommendation of the Prime Minister.¹⁵

11. Greece's judiciary is divided into courts of first instance, courts of appeal or higher courts and the *Areios Paghos*, the supreme criminal court. The President appoints judges for life after consultation with a judicial council. Courts may refuse to apply statutes on grounds of unconstitutionality. Lower courts are not obliged to follow the *Areios Paghos*, though such decisions may be reversed on appeal. The *Areios Paghos* generally follows its own precedents. The works of legal scholars are not sources of law but can be very influential.¹⁶

12. Prosecutions are conducted by the Public Prosecutors Office, which is divided by geographic region and level of court. Prosecutors are bound by the principle of mandatory prosecution, *i.e.* they must commence proceedings upon receiving information of a crime; they have no discretion to not proceed.

(c) Implementation of the Convention and the Revised Recommendation

13. Greece implemented the Convention by enacting Law 2656/1998 (see Annex 2). After the Phase 1 review in July 1999, Greece amended several aspects of the Law on the recommendation of the Working Group. The revised Law refers to the definition of "foreign public officials" in the Convention and expressly permits confiscation of the proceeds of foreign bribery. It also expands administrative liability to all legal persons (not only enterprises) (Article 9, Law 3090/2002).

14. Both the previous and the present, recently-elected governments have undertaken several initiatives to combat corruption. In 1999, Greece began to require certain public officials and their families to declare their assets annually. In 2003, the programme was expanded to additional officials. According to the Greek authorities, corruption was a major issue in the March 2004 elections. Since being elected,

¹³ OECD (2004), *Territorial Review of Athens, Greece*, OECD, Paris, p. 92.

¹⁴ Gilson, G. (12 April 2002), "Cash to Enhance Peace", Athens News, Athens.

¹⁵ U.S. Central Intelligence Agency (11 May 2004), *The World Fact Book*, U.S. Central Intelligence Agency, Washington, D.C.

¹⁶ Spinellis, D. and Spinellis, C.D. (1999), *Criminal Justice Systems in Europe and North America – Greece*, Heuni, Helsinki, pp. 30-31; Christodoulou D. Ph., "Introduction to the Greek Legal System", *Guide to Doing Business in Greece*, American Hellenic Institute, Washington, D.C.; Dagtoglou, P.D. (1993), "Constitutional and Administrative Law", *Introduction to Greek Law*, Kluwer and Sakkoulas, Deventer, pp. 21-52; U.S. Central Intelligence Agency (11 May 2004), *The World Fact Book*, U.S. Central Intelligence Agency, Washington, D.C.

the present government has appointed a commission to review all non-criminal legislation that might facilitate corruption. The Ministry of Interior, Public Administration and Decentralisation has announced several initiatives to improve the government's transparency and accessibility. Parliament is considering a bill to ban persons with interests in media companies from competing for public contracts. It should be noted, however, that almost all of these efforts focus on domestic and not foreign corruption.

(d) Cases Involving the Bribery of Foreign Public Officials

15. Greece has had no prosecutions of foreign bribery.

3. Outline of the Report

16. The report is structured as follows. Part B examines Greece's efforts to prevent, detect and raise awareness of foreign bribery. Part C-E look at the investigation, prosecution and sanctioning of foreign bribery. Part F sets out the recommendations of the Working Group and issues that require follow-up.

B. PREVENTION, DETECTION AND AWARENESS-RAISING

17. In general, Greece has made commendable efforts to raise awareness and to train its officials to fight domestic corruption. Until very recently, however, little has been done concerning foreign bribery and the Convention. Officials at the on-site visit frankly admitted that there were few people who were aware of the Convention in the first few years after its ratification, though they are hopeful that the situation will improve.

18. This low level of awareness of foreign bribery may largely be due to the policy of the Greek government (as described by one official) to give domestic bribery greater priority over foreign bribery. Representatives of civil society also expressed concerns over the enforcement and investigation of foreign bribery. One NGO and a journalist described a lack of "political will" in investigating and prosecuting bribery. Several participants believed that enforcement is ineffective because of insufficient training for law enforcement agencies and the absence of a government policy against corruption.

1. Awareness-Raising Initiatives within the Public Sector (Excluding Law Enforcement and Tax Agencies)

19. At the time of the on-site visit, apart from law enforcement agencies and diplomatic officials, the Greek government appeared to have made few efforts to raise awareness of the Convention within the public sector. Several Greek government bodies (such as the Ministries of Finance and Economy (MOFE), Justice, and the Interior, Public Administration and Decentralisation, and the Hellenic Capital Markets Commission, Greece's securities market regulator) deal with foreign companies or Greek companies which operate internationally. Yet, the government had not trained or raised awareness of the Convention amongst the staff of these bodies. The MOFE stated that it had recently conducted meetings on the Convention because of the impending Phase 2 on-site visit. It discovered that many people in the MOFE (apart from members of the Body for the Prosecution of Economic Crime (SDOE), which is the body designated to investigate foreign bribery under Law 2656/1998) did not know about the Convention, and "some had reservations about the Convention" when they were told about it. It was also unclear whether agencies which provide officially supported export credit (the Export Credit Insurance Organisation) and official development assistance (Hellenic Aid) had undertaken awareness-raising activities for their staff (see Sections E.3(a) and (b)).

Commentary

The lead examiners recommend that Greece make more efforts to raise the awareness of the Convention and Law 2656/1998 in the public sector, particularly in the Ministries of Finance and Economy, Justice, and the Interior, Public Administration and Decentralisation, the Hellenic Capital Markets Commission, the Export Credit Insurance Organisation and Hellenic Aid.

2. Government Initiatives to Raise Awareness within the Private Sector

(a) Generally

20. As in the public sector, at the time of the on-site visit, little had been done to raise the awareness of the Convention and Law 2656/1998 amongst the Greek business community, academics and relevant professionals. The Ministry of Justice and the Ministry of Finance and Economy (MOFE) had not engaged in such activities. These Ministries had not issued brochures or circulars to publicise the Convention or Law 2656/1998, nor had they referred to these instruments on their web-sites. The MOFE promoted the OECD Guidelines for Multinational Enterprises only until 2002 when it ran into “administrative difficulties”. The web-site of the Hellenic Centre for Exports, however, continues to refer to the Guidelines, the Convention and the Revised Recommendation.

21. Greece reported, however, that there have been various activities after the on-site visit to raise the awareness of foreign bribery and the Convention. The Ministry of Justice has created a new web-page dedicated to anti-corruption legislation, including the implementation of the Convention and other international instruments to which Greece is or will soon be a party.¹⁷ The web-sites of several other ministries and authorities now refer to corruption issues and the Convention¹⁸ or link to other web-sites that do so. These developments are encouraging.

(b) Officially Supported Export Credits

22. Export credit agencies deal with companies that participate in the international market and thus could play an important role in raising awareness of the Convention and in discovering foreign bribery cases. In Greece, officially supported export credits are administered by the Export Credit Insurance Organisation (ECIO), a “legal entity of private law” supervised by the Ministry of Economy and Finance. Most of the services of the ECIO are provided to small firms which form the majority of exporters in Greece.¹⁹

23. The ECIO has made some efforts to communicate the Convention to its clients. According to a recent OECD survey,²⁰ Greece informs all applicants requesting officially supported export credit about the

¹⁷ Greece has ratified the 1999 Council of Europe Civil Law Convention on Corruption. It is in the process of ratifying the 1999 Council of Europe Criminal Law Convention on Corruption and the 2003 UN Convention on Corruption.

¹⁸ These include the web-sites of the Ministry of Foreign Affairs, the Ministry of Finance and Economy, and the Body for the Prosecution of Economic Crime (SDOE).

¹⁹ OECD Working Party on Export Credits and Credit Guarantees (2004), *Officially-Supported Export Credits and Small Exporters*, OECD, Paris.

²⁰ OECD Working Party on Export Credits and Credit Guarantees (2004), *Responses to the 2002 Survey on Measures Taken to Combat Bribery in Officially Supported Export Credits – As of 12 October 2004*, OECD, Paris, TD/ECG(2004)15.

legal consequences of foreign bribery in the application form and the general conditions of cover.²¹ Applicants are asked to undertake in the application that they have not and will not engage in bribery in the export transaction.²² The ECIO may also deny support if an applicant engages in bribery (see Section E.3(a)). In 2001, the ECIO sent circulars to clients and potential clients advising them of these provisions. The ECIO does not mention these provisions or the Convention on its web-site, although it indicated that it intends to do so.

(c) Official Development Assistance

24. Agencies that dispense official development assistance (ODA) also deal with companies that participate in the international market. Greece is not a major provider of ODA by international standards, but its role is increasing, particularly in the Balkans.²³

25. The International Development Co-operation Department within the Ministry of Foreign Affairs (commonly known as Hellenic Aid) is responsible for administering ODA in Greece. Apart from including an anti-bribery clause in its contracts, it is unclear what efforts, if any, Hellenic Aid has made to raise awareness of the Convention amongst the companies with which it deals. The web-site of Hellenic Aid describes the conditions for granting aid, but it does not refer to the Convention or the anti-bribery provisions in its contracts.

26. Following the on-site visit, Greece stated that Hellenic Aid was reviewing all of its procedures while participating actively in the general world-wide debate on the accountability of ODA.

(d) Hellenic Capital Markets Commission

27. The Hellenic Capital Markets Commission (HCMC) is the securities market regulator in Greece. It does not appear the HCMC has directly promoted the Convention to the Greek private sector. According to the Greek authorities, the HCMC had undertaken “an extensive consultation with the industry in view of the Convention. Early on it adopted rules on the prevention and legalisation of revenue from illicit

²¹ The application form and general cover state:

ECIO’s cover is invalidated. If due to bribery the export or credit contract is void under the applicable law, and the regulations of international trade, it is legitimate to withdraw cover for this transaction. If an indemnity is already paid, this sum must be paid back to ECIO according to the civil laws about undue enrichment. Further access to any of ECIO’s coverage is denied.

²² The undertaking reads:

We hereby declare that: “Neither we, nor anyone acting on our behalf, have been engaged or will engage in Bribery in the export transaction.” Moreover, we are aware that in case where we, or anyone acting on our behalf, have been engaged or will engage in Bribery in the export transaction, ECIO’s cover is invalidated, Claims are not indemnified and/or recourse is sought and Other (e.g. denial of access to official support). If an indemnification has been already paid this sum must be paid back to ECIO.

²³ In 2002, Greece provided USD 276 million in ODA (0.21% of Gross National Income), ranking 20th out of 22 members of the OECD Development Assistance Committee (DAC). The bilateral share of ODA was USD 107.64 million (DAC, OECD (2003)). In 2002, Greece established the Plan for the Economic Reconstruction of the Balkans (GPERB), a five-year, EUR 550 million development aid programme directed at mainly Balkan countries (namely Bulgaria, Albania, Bosnia and Herzegovina, Macedonia, and Serbia and Montenegro) for infrastructure, social and business projects. Approximately 80% of the funds are given directly to recipient states, while the remaining are available to private investors. Proposals for private investment must be approved by the Ministry of Economy and Finance (web-site of the Ministry of Foreign Affairs, www.mfa.gr).

activities in decision 108 of 27 May 1997 and has regularly conducted seminars on the consequences for the regulated industry of these rules” (Response to Phase 2 Questionnaire, p. 8). This decision, however, dealt with money laundering, not foreign bribery and was made before Greece had ratified the Convention. At the on-site visit, the HCMC undertook to raise awareness of the Convention. Following the visit, the HCMC stated that it planned to refer to the Convention and the Revised Recommendation on its web-site.

28. The HCMC has developed a Code of Conduct for Companies Listed in the Athens Stock Exchange and Connected Persons, which applies to all listed companies. The Code deals primarily with corporate governance issues and does not touch upon foreign bribery.

Commentary

The lead examiners recommend that Greece take a proactive role in raising the awareness of the Convention and Law 2656/1998 within the private sector. In particular, they recommend that the Ministries of Justice, and Finance and Economy further increase the publicity of these instruments by circulating literature to relevant business organisations, enterprises and professionals. The lead examiners also recommend that the ECIO, Hellenic Aid and the HCMC make greater efforts to promote the Convention, Law 2656/1998 and the consequences of engaging in bribery to their clients and prospective clients.²⁴

3. Awareness-Raising Initiatives by the Private Sector

29. Based on the level of participation in the on-site visit, the Greek business community appeared genuinely interested in the Convention and the issue of foreign bribery. The lead examiners met numerous representatives of Greek companies and business associations from sectors such as banking, energy, construction, telecommunication, food and shipping. Unfortunately, this interest has not necessarily been translated to awareness of the Convention, which is generally low in the Greek private sector.

(a) Business and Labour Organisations

30. Business organisations which specialise in trade and international investment can be instrumental in raising awareness of the Convention. Unfortunately, none of these organisations in Greece, such as the Hellenic Foreign Trade Board, received information on the Convention from the Greek government or provided training to their members. The Inter-Balkan and Black Sea Business Centre stated that it would provide such training if asked to do so. The Exporter Association of Northern Greece was aware of Law 2656/1998, but did not relay the information to its members. The Panhellenic Exporters Association did not believe that there were any reasons to disseminate information about the Convention to its members.

31. The situation is the same for other general business organisations and chambers of commerce. The Hellenic Banking Association has provided seminars on money laundering, but not foreign bribery. The Federation of the Greek Industries (SEV) may be the only exception, partly because it was involved in the preparation of the Convention through the Business and Industry Advisory Committee to the OECD (BIAC). It indicated that it has provided training to its members on both the Convention and the OECD Principles of Corporate Governance.

²⁴ This Commentary should not be interpreted as a suggestion that the policies of the ECIO and Hellenic Aid do not meet the standards set out in the following instruments: Working Party on Export Credits and Credit Guarantees (20 February 2003), *Action Statement on Bribery and Officially Supported Export Credits*, OECD, Paris, TD/ECG(2000)15; and Development Assistance Committee (7 May 1996), *Anti-Corruption Proposals For Bilateral Aid Procurement*, OECD, Paris, DCD/DAC(96)11/FINAL.

32. The lead examiners are of the impression that Greek business organisations have done little to promote the Convention because they do not see foreign bribery as a pressing concern, even though many Greek businesses are active in sensitive economies and sectors. The SEV and the Federation of Industries of Northern Greece stated that their members have not reported being solicited by foreign public officials, although they have not sought information from their members on the topic. Another participant at the meeting stated that the quality of the public administrations in the Balkans has improved since 1995. The average citizen in those countries may still experience corruption, but these are only “minor offences”. The representative added that there have been reports in the media of “bigger cases” but there have been no specific complaints.

33. It is of interest to note that the view of Greek civil society on the likelihood of Greek companies to commit foreign bribery is in contradistinction to that of the private sector. One NGO stated that it is difficult for small companies to resist bribery in countries where the legal environment is weak and the public administration is prone to corruption and malpractice (such as in the Balkans).

34. The trade unions at the on-site visit stated that they have not undertaken any initiatives to raise awareness of the Convention amongst their members.

35. Following the on-site visit, Greece stated that the SEV, the Export Organisation of Northern Greece and the Athens Chamber of Commerce were organising further conferences, lectures and open debates on these subjects. These organisations also planned to disseminate Greek translations of the Convention and the Revised Recommendation electronically and through leaflets.

(b) Major Greek Enterprises

36. The situation with Greek enterprises is similar. None of the companies at the on-site visit received any information from the government regarding the Convention or Law 2656/1998. Some only became aware recently. Others became aware earlier because they are listed on stock exchanges in other jurisdictions which are parties to the Convention, and were required by these jurisdictions to implement anti-foreign bribery measures. Some companies became aware through their legal departments when the Convention was ratified, but it is not clear whether they disseminated the information from the legal departments to other employees. None of the companies set up training seminars or provided literature to explain the Convention and the implementing legislation.

37. All major Greek companies are required to have codes of conduct and policies on business integrity (Law 3016/2002). Companies which participated at the on-site visit stated that they periodically disseminate their codes and policies to staff through presentations and workshops. Unfortunately, the codes of only two companies discuss bribery (but not specifically foreign bribery). The code of a maritime company requires its employees to act “ethically and honestly”, but does not refer to bribery.

38. Although the companies who attended the on-site visit are all active internationally, including in sensitive markets such as the Balkans, all of the companies categorically state that their employees have never been asked to pay a bribe by a foreign public official. One bank acknowledged that there is small-scale corruption in the Balkans (and gave the example of paying a bribe to avoid a speeding ticket), but believes that corruption does not exist in major transactions. Another bank stated that it had encountered fraud committed by its employees in which the bank suspected, but could not prove, that funds may have been diverted for a bribe. One shipping company denied having been solicited, but stated that other smaller companies in the industry often are.

(c) Small and Medium-Sized Enterprises

39. The level of awareness among small and medium-sized enterprises (SMEs) is particularly important because a significant number of Greek SMEs operate internationally. Because of their limited resources, it is often difficult for SMEs to obtain relevant information and legal advice. Greek SMEs and organisations which represent SMEs have not received information on the Convention from the government, nor have they received or provided relevant training. None of them were aware of companies being solicited by foreign public officials, even though many Greek SMEs operate in sensitive economies. The Association of Business Consultants for Small and Medium Enterprises in Greece was not aware of the Convention before the on-site visit.

(d) Accounting and Legal Professionals

40. Similarly, the Institute of Certified Public Auditors (SOEL) and the Accounting and Auditing Oversight Board (ELTE) have not engaged in activities to raise awareness amongst their members. The ELTE believed that this was the responsibility of the SOEL. Meanwhile, the SOEL did not believe that these activities were worthwhile since it doubted the effectiveness of accounting and auditing as a means of preventing and detecting foreign bribery. According to the representative of the SOEL, foreign bribery occurs at extremely high levels in a corporation, such as when a company receives state aid, and hence usually will not be detected by internal or even external auditing.

41. Following the on-site visit, Greece stated that the ELTE was planning to send two circulars to all Greek auditing firms. One circular will contain the complete text of Law 2656/1998 and describe how the relevant provisions have been implemented. The second circular will draw the attention of all Greek auditing firms to the relationship between the Convention and the recently introduced Greek Auditing Standards (Government Gazette B 1589, 22 October 2004).

42. The level of awareness within the legal profession also appears to be low. The Athens Bar Association stated that the Convention had been discussed. It held a meeting on the subject on 15 November 2004. According to the Association of Greek Criminal Lawyers, academic interest in foreign bribery has been quite low because of a lack of cases. It also indicated that it had planned a meeting in October 2004 to discuss foreign bribery, but it is not clear whether the meeting was eventually held. Beyond the criminal bar, there appeared to have been little, if any, awareness-raising activities.

(e) Conclusion

43. The interest of the private sector in the issue of foreign bribery is encouraging. There remain concerns, however, over the low level of awareness of the Convention and Law 2656/1998. Efforts to disseminate information on these instruments have not been adequate. The situation is particularly disconcerting since many Greek businesses operate in sensitive markets and sectors. The absence of reports by employees that they have been solicited by foreign public officials provides only false comfort, considering so few employees are aware of the Convention. In short, the private sector, with the assistance and encouragement of the Greek government, needs to be much more proactive in raising awareness of the Convention and Law 2656/1998. The efforts that have been undertaken since the on-site visit are encouraging but not sufficient.

Commentary

The lead examiners recommend that Greece be more proactive in raising awareness of the Convention and Law 2656/1998 in the private sector. Specifically, they recommend that Greece make further efforts to (1) directly publicise these instruments to the public, particularly the business and relevant professional communities, and (2) collaborate with and

assist business, labour and professional organisations to raise awareness, e.g. through publicity campaigns and seminars.

4. Reporting by the Public Administration Generally

44. Greek public officials are obliged to report crimes of which they become aware “in the exercise of their duties” (Article 37(2), Code of Penal Procedure). Breach of this provision is punishable by imprisonment of up to two years, unless such act is punishable by another penal provision (Article 259, Penal Code). Since 2003, Greek civil servants (excluding police personnel) have reported 34 cases of domestic bribery to law enforcement authorities. No cases of foreign bribery have been reported.

5. Foreign Representations

45. Greek diplomatic representations posted overseas may receive information on bribery of foreign public officials by Greek companies abroad. The Ministry of Foreign Affairs (MOFA) states that it has not received reports of foreign bribery committed by Greek companies. Nor has it received complaints of any economic crime, including foreign bribery, from Greek companies which operate internationally. These companies also have not sought assistance from Greek embassies and diplomatic posts on such matters.

46. The MOFA stated that it had organised seminars to raise awareness of the Convention amongst its overseas officials. At the on-site visit, the Ministry also stated that it had sent circulars on this subject to its officials abroad. After the visit, however, an official from the Ministry of Justice stated that no circulars had been sent. The MOFA added a reference to the Convention on its web-site following the on-site visit.

47. Greek overseas embassy officials have a duty to report crimes. According to the MOFA, on becoming aware of an offence committed by a Greek national or company, economic counsellors posted abroad will make a cursory determination of whether the case is frivolous. If it is not, the counsellor must report the case to the local government and monitor the progress of the case. As with all public officials, they are also required to report the case to Greek law enforcement authorities. The MOFA, however, has not created specific guidance for its officials to report complaints of foreign bribery.

Commentary

The lead examiners recommend that the Ministry of Foreign Affairs undertake further efforts to raise awareness of the Convention amongst its overseas diplomatic staff. They also recommend that the Ministry issue guidance to foreign representations, including embassy personnel, concerning the steps that should be taken where non-frivolous allegations arise that a Greek company or individual has bribed or taken steps to bribe a foreign public official, including the reporting of such allegations to the competent authorities in Greece.

6. Treatment of Bribe Payments by the Tax Authorities

48. The examination of tax information can also uncover foreign bribery. Furthermore, the Revised Recommendation urges member countries to disallow tax deductions of bribes to foreign public officials.²⁵

²⁵ See also OECD (1996), *Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials*, C(96)27/FINAL, OECD, Paris.

(a) *Non-Deductibility of Bribes*

49. The Greek authorities stated that bribe payments are not deductible in Greece, although there is no legislative provision which expressly prohibits such deductions. As noted in the Phase I review (at p. 16), Article 31 of Law 2238/1994 “states as a general principle that any expenditure not directly related to the business of the enterprise is non-deductible.” As well, the Law lists in detail deductible items. Bribes are not deductible because they are not on the list.

50. After the on-site visit on 14 January 2005, the Ministry of Finance and Economy issued an 81-page exhaustive list of deductible items. The list was compiled based on judicial decisions and the practice of tax authorities. The tax authorities are required to allow deduction of all items on the list. The list, however, does not include bribes.

51. According to Greek officials, that bribe payments are not deductible in Greece is amply supported by case law, but the Greek authorities did not provide such case law to the lead examiners.²⁶ The Greek authorities also confirmed that a conviction for bribery is not a precondition to non-deductibility of a bribe.

52. Although bribe payments may not be deductible *per se*, there remain categories of deductible expenses which could conceivably be used to hide bribe payments. According to Greek officials, these include salaries, administrative expenses, travel expenses, royalties and know-how acquisition expenses. Within each category, any expense incurred “within the activities of an enterprise” is considered “productive” and hence deductible.

Commentary

The lead examiners recognise that Greek law does not allow tax deduction of bribes. Nevertheless, they believe that an express denial of deductibility in Greek tax law may strengthen the mechanisms available for detecting and deterring bribery. Therefore, they recommend that Greece consider introducing an express denial to its legislation.

(b) *Awareness and Training of Tax Officials*

53. Awareness of foreign bribery amongst tax officials is particularly important in Greece since the tax administration has hired over 1 200 new personnel over the last four years. Unfortunately, the present level of awareness amongst tax officials appears uneven. For instance, one official at the on-site visit mistakenly thought the Revised Recommendation concerned the declaration of bribes as income by Greek public officials.

54. The Greek tax authorities stated that seminars are offered to both new recruits and tax examiners on a wide variety of subjects, including corruption. At the time of the on-site visit, it was not clear whether these seminars had dealt specifically with foreign bribery. Only a summary of the OECD Bribery Awareness Handbook for Tax Examiners had been translated into Greek, and it was not known whether the summary had been disseminated to all tax examiners and new recruits. There appeared to have been no other training or guidelines on how to detect deduction of bribe payments.

²⁶ The Greek authorities provided a translation of Decision 1820/1994 of the Council of State. The case stands for the general proposition that a deduction will not be allowed if an expenditure “is feigned, that it was either not paid by the company, or that it was paid, though not for the productive purpose that is recorded but for another, not productive purpose.” The case does not deal directly with deduction of bribe payments.

55. Since the on-site visit, Greece has added foreign bribery to the lectures and seminars which are provided to all fiscal officials, including the officers of the SDOE, and customs and excise officials. The Ministry of Finance and Economy intends to translate into Greek the full text of the OECD Handbook and specific instructions on how to detect bribe payments. The Ministry plans to disseminate this information to all tax examiners, accountants, certified public auditors and any other relevant authority or body. It also intends to include the Greek text of the Handbook on its central web-site with links to the SDOE web-site.

56. Tax audits also do not contain a component specifically on the deduction of bribes. Greek officials explained that deductions must be supported by written documentation (including receipts). Tax examiners choose a random sample of filed tax returns for examination, but statistics on the percentage of tax returns that were examined were not available. Based on the filed information, tax examiners cross-check claims for deductions with an enterprise's cash flow and other transaction documents. The primary purpose of the inspection is to determine whether the expense is fictitious. Greek officials will seek the assistance of foreign tax authorities to verify a deduction only when there is evidence that a foreign company colluded with the taxpayer. What amounts to such evidence is not clear.

57. The lead examiners are concerned that mere verification of whether an expense exists may not be sufficient to detect deductions of bribes, since such payments are not fictitious *per se*. Furthermore, the requirement of evidence of collusion before seeking the assistance of foreign authorities appears high. If an expense *prima facie* falls into a category of allowable deduction based on the supporting documentation, a tax examiner may have little incentive to make further inquiries. To remedy the situation, the Greek authorities could consider addressing foreign bribery (including methods of detecting bribes) in its training seminars for tax officials and developing guidelines for tax examiners on how to detect bribe payments. Greece could also consider translating the entire OECD Bribery Awareness Handbook for Tax Examiners into Greek and disseminating it to all tax examiners.

Commentary

The lead examiners recommend that Greece increase its efforts to further raise the awareness of foreign bribery amongst tax officials.

(c) Reporting and Information Sharing

58. Tax officials are generally required to maintain confidentiality of information gathered in the course of their duties. Hence, they cannot pass information or intelligence to other law enforcement agencies absent a judicial order. The only exception is Article 37 of the Code of Penal Procedure, which obliges all public officials (including tax officials) to report knowledge of a crime to the public prosecutor.

59. Tax examiners can also gather information to further their investigations. Greek tax officials stated that all natural and legal persons are obliged to forward any information or evidence upon request. The Financial Inspector and the head of the competent tax authority may apply to a competent judicial council to lift bank secrecy (Article 66(1)(b), Law 2238/1994).

60. Concerning the sharing of information with tax authorities in other jurisdictions, the Commentary on Article 26 of the OECD Model Tax Convention was recently amended. Paragraph 12.3 of the Commentary now permits contracting states "to allow the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (*e.g.* to combat money laundering, corruption...)", provided that "such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use." Greece did not object to the amendments to Article 26. Greece intends to amend the tax treaties to which it

is a party to reflect the amendment, although it does not know when it will do so. Greece also intends to adopt the amendment in the tax treaties that it signs in the future.

7. Reporting by Accountants and Auditors

(a) Accounting and Auditing of Private Sector

61. Effective accounting and auditing procedures may also result in the detection of bribery of foreign public officials. As with all individuals in Greece, accountants and auditors are under a general obligation to report crimes of which they become aware.

(i) Internal Auditing

62. Additional laws govern reporting by internal auditors. A company that has been or will be listed must set up an internal audit department to implement and monitor the company's internal control and compliance procedures (Law 3016/2002). The internal audit department must report the results of audits, presumably including any irregularities, to the board of directors on a quarterly basis. It is also required to attend (but not report to) general meetings of shareholders.

63. Internal auditors are hired and fired by the board of directors; their independence is thus debatable. Furthermore, a board of directors is not required to report irregularities discovered by internal auditors to law enforcement authorities. Representatives of the Greek accounting profession at the on-site visit concurred with these observations and stated that effective detection of accounting irregularities depends primarily on external auditing. Furthermore, they believed that bribery will only occur at very high levels in a company, and hence the role of internal auditors in the detection of bribery is very limited.

(ii) External Auditing

64. The lead examiners were advised that all *sociétés anonymes* (corporations) in Greece (including state-owned and state-controlled companies) are subject to external audits. In addition, entities which have two of the following three features must be externally audited by Certified Public Auditors, who are more qualified than regular auditors: (1) annual turnover of more than EUR 3 million; (2) assets greater than EUR 1.5 million; (3) more than 50 employees (Article 42, Law 2190/1920). Representatives of the Greek accounting profession stated that approximately 4 000 enterprises are subject to external auditing. In their view, companies that are not externally audited by Certified Public Auditors tend to be small and do not conduct business internationally.

65. There are some rules to enhance the independence and transparency of external auditors. An auditor's remuneration must be disclosed in a company's financial statements. An auditing firm and its subsidiaries are only allowed to provide auditing services to a client; provision of other services such as consulting is prohibited. A company must change auditors at least once every four years. If a company terminates an auditor before his/her term is over, the new auditor must be allowed to verify with the previous auditor whether the latter had detected any accounting irregularities.

66. External auditors have reporting obligations in addition to those which apply to all individuals in Greece. Representatives of the Greek auditing profession stated that they are obliged to report instances of tax evasion to the tax authorities. They must report to shareholders any act (including bribery) which prevents them from reaching a proper conclusion on a company's accounts. These obligations to report supersede any duties of confidentiality. If an external auditor is in doubt over whether he/she has an obligation to report, he/she must seek the advice of the Accounting and Auditing Supervisory Board. Despite these reporting requirements, representatives at the on-site visit were not aware of any cases in which bribery or other crimes had been discovered through an external audit.

67. After the on-site visit, Greece added that auditors who discover any illegal acts identified in the course of an audit must also report the matter to the board of directors and the audit committee of the audited company (Paragraph 2250, Greek Auditing Standards). The auditors are further obliged to report the matter to the competent public authorities.

68. The lead examiners are mindful of the reporting obligations of Greek accountants and auditors as described above. Nevertheless, it may be advantageous to further require external auditors to report indications of bribery to corporate monitoring bodies (such as the Hellenic Capital Markets Commission) as appropriate (Revised Recommendation V.B.(iii)). Furthermore, specific directions to these professionals on their obligation to report foreign bribery and false accounting will enhance detection of these offences, and also raise much-needed awareness of the Convention amongst corporations and the accounting profession.

Commentary

The lead examiners recommend that Greece devise specific guidelines for accountants and auditors to report foreign bribery and false accounting. They also recommend that Greece require external auditors to report indications of bribery to corporate monitoring bodies (such as the Hellenic Capital Markets Commission) as appropriate.

(b) Accounting and Auditing of the Public Sector

(i) Court of Audit

69. The Court of Audit is principally responsible for auditing the Greek public sector. The Court audits “the expenditures of the State, local government agencies and other legal entities subject to this status by special provision of law” (Article 98, Constitution). It does not, however, audit state-owned or controlled entities which the legislature has designated as private bodies (e.g. banks and power companies); these entities are subject to the auditing rules which govern the private sector.

70. The Court conducts annual audits. It may also conduct additional special audits when the need arises. The Court audits not only accounts but also contracts (such as those involving procurement) which exceed a certain value and to which the public sector is a party.

71. According to Greek officials, the Court applies internationally accepted auditing standards as a matter of practice. As of 2002, the Court was taking steps to implement the 15 European Implementing Guidelines for INT.O.S.A.I. Auditing Standards. It is unclear whether those guidelines have now been fully implemented.

72. As with private sector auditors, the Court has a duty to report criminal offences. Upon discovery of offences in the course of its work, the Court will report the case to the relevant Minister, the Court’s President and the public prosecutor’s office. On average, it makes ten such reports annually.

(ii) Additional Investigative Bodies

73. There are additional bodies which monitor the public sector. Under Law 3074/2002, the Public Administration Inspection-Auditing Corps (SEEDD) and the Public Administration General Inspector (PAGI) may inspect and audit regional and local authorities, state-run enterprises, state-run public law legal entities, and public corporations which are managed directly or indirectly by the state as a shareholder or under administrative acts. The PAGI submits annual reports, and additional reports if necessary, to the Prime Minister and the President of Parliament. Both the SEEDD and the PAGI must report any penal offences which they discover to the public prosecutor.

74. At the on-site visit, the Court of Audit, the SEEDD and the PAGI demonstrated that their primary focus is, understandably, corruption within the Greek civil service. Nonetheless, these bodies audit and monitor entities (such as state-controlled enterprises) which may deal with foreign public officials. Thus, it is important that these bodies are fully aware of the Convention and Law 2656/1998, and of their obligations to detect and report foreign bribery.

Commentary

The lead examiners recommend that Greece raise the awareness of the Convention and Law 2656/1998 amongst the Court of Audit, the SEEDD and the PAGI, and reiterate to these bodies of their obligations to detect and report foreign bribery.

8. Money Laundering

(a) *The Offence of Money Laundering*

75. Effective sanctions against money laundering may reduce the incentive to bribe foreign public officials. In Greece, Article 2 of Law 2331/1995 implements the offence of money laundering. A person commits money laundering when he/she “purchases, conceals, accepts as real security, accepts under his/her possession, is made the beneficiary, modifies or transfers any property that results from criminal activity, with the intent to profiteer or to conceal the true provenance or to assist a person engaged in that activity”. The Law lists all eligible predicate offences, which includes domestic and foreign bribery, regardless of whether the offence was committed in Greece or abroad.

76. Money laundering is punishable in Greece by imprisonment of up to ten years. If the offender launders money professionally or is a repeat offender, the minimum punishment is ten years imprisonment. At the on-site visit, Greece stated that fines are not available, but the instrument used in committing a predicate offence (e.g. a bribe), the proceeds of a predicate offence and property acquired from such proceeds are confiscated. If confiscation is not possible, the court may impose a fine in an equivalent amount. After the on-site visit, Greece changed its position and stated that fines are available for money laundering under Article 81 of the Penal Code.²⁷

77. Legal persons may also be liable for money laundering. If a predicate offence listed in Law 2331/1995 results in “direct financial benefit” to a legal person whose administrators or managers are aware of the source of the benefit, then the legal person may be fined administratively between three to ten times the value of the benefit. The legal person may also be banned temporarily or permanently from operating, receiving public benefits or participating in public tenders. Penalties are reduced if administrators or managers of the legal person are negligent as to the source of the benefit (Article 8, Law 2928/2001).

(b) *Money Laundering Reporting*

78. An effective system for reporting suspected money laundering transactions may lead to detection of the underlying predicate offence. In Greece, Article 4 of Law 2331/1995 requires credit or financial institutions to examine every transaction that may be connected to money laundering, and to implement internal procedures for detecting and reporting of such transactions. These obligations extend to the institutions’ overseas branches. All suspicious transactions must be reported to Greece’s financial intelligence unit, the Committee under Article 7 of Law 2331/1995. Breach of these obligations may result

²⁷ Article 81 of the Penal Code permits a court to impose a fine “together with a custodial penalty” when a crime “emanates from causes of profit”.

in administrative sanctions against a credit and financial institution for failure to establish the appropriate internal control and communication.

79. After the on-site visit, Greece stated that the government will soon present draft amendments to Law 2331/1995 to Parliament. Under the proposed amendment, a person who breaches his/her duty to report a suspicious transaction because of gross negligence may be imprisoned for up to two years. A person who provides false or misleading data is subject to similar punishment.

80. Responsibility for collecting and analysing all suspicious transaction reports (STRs) rests with the Committee. The Committee is chaired by a senior judge or public prosecutor. Its remaining 13 members are drawn from various government ministries, the SDOE, representatives of the banking and securities sectors, and the regulatory bodies of these sectors. The members work for the Committee only part-time and generally meet once per week. The Committee also has four permanent officers. When the Committee wishes to conduct investigations, it seeks the assistance of the SDOE and, if necessary, other police forces.

81. The Bank of Greece is responsible for enforcing the reporting obligations in the banking sector. The Bank issues circulars and orders to all financial institutions detailing how the reporting obligations should be implemented. All institutions must have internal audit and control procedures that have been approved by the Bank. The Bank conducts annual on-site examinations to enforce these requirements. The Bank also assists financial institutions by providing guidelines on how to set up internal reporting and control procedures. It disseminates new rules, regulations and typologies through circulars and the internet, though it does not appear that these materials deal specifically with foreign bribery. The Bank also regularly meets Greek financial institutions to discuss the latest typologies.

82. The private sector provides additional training and awareness-raising activities. The Hellenic Banking Association holds seminars for bank employees and has supplied literature on topics such as customer due diligence to its members. It holds regular meetings between the Committee and compliance officers of its member banks to discuss typologies and compliance procedures. Through circulars, it advises its members of legislative changes.

83. Representatives of financial institutions corroborated much of the above. All of the represented institutions had compliance policies which applied to Greek and overseas branches. All had trained its employees on money laundering through seminars, presentations, information packages and internet resources. In some cases, training was also provided to overseas employees.

84. The lead examiners were encouraged to hear that some of these initiatives dealt specifically with laundering of proceeds of bribery. One major bank had a policy (available in print form and on the internet) which discusses the treatment of politically exposed persons.²⁸ The policy manual of another major bank contained one paragraph on bribery. According to the Bank of Greece, the procedures and typologies of several other banks in Greece which were not present at the on-site visit also refer to bribery.

²⁸ Politically exposed persons (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, *e.g.* heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. For more information, see Glossary and Recommendation 6 of *The Forty Recommendations (2003)*, Financial Action Task Force, Paris.

(c) *Statistics*

85. The lead examiners are pleased that Greece's suspicious transaction reporting system has led to investigations into bribery. From 2001 to 2003, the Committee received three STRs concerning suspected bribery of foreign public officials, although additional investigation eliminated the suspicions. In addition, the Committee has received 15 STRs regarding domestic bribery since 2001. Six of those cases were forwarded to the public prosecutor's office and resulted in criminal proceedings. The remaining cases were closed because of insufficient evidence.²⁹

(d) *Tax Amnesty Programme*

86. Following the examples of several other countries, Greece enacted a programme to repatriate assets between 4 August 2004 and 4 February 2005 (Article 38, Law 3259/2004). Participants in the programme may transfer assets from abroad to Greece subject to a 3% tax on the value of the asset. The transferor is then absolved of all past tax liabilities with respect to the transferred assets. The Greek government has extended the programme by three months because the amount of funds that had been repatriated was much less than expected.³⁰

87. Any individual or entity subject to Greek taxation may take advantage of the programme. Repatriation must be effected through credit or other financial institutions that operate in Greece. The transferor must submit a written declaration or authorisation to the financial institution. After the on-site visit, the Greek authorities added that the transferor is required to specify the name of the transferor and the source of the funds in the declaration.

88. The lead examiners are concerned that the programme may be used to dissimulate bribe payments and proceeds of bribery. According to Greek authorities, the programme exempts the transferor from fiscal offences only; laws such as Law 2331/1995 on money laundering continue to apply, as do anti-money laundering measures (such as suspicious transaction reporting). It is, however, unclear whether and how the money laundering reporting obligations are applied to repatriated assets. In particular, the lead examiners are concerned that the declaration filed by the transferor may contain little information on the source and nature of the asset in question. If that is the case, it may be extremely difficult to determine whether the assets are bribe payments or proceeds of bribery. Greece was unable to advise whether assets repatriated under the programme have generated any STRs.

Commentary

The lead examiners recommend that Greece pay particular attention to information arising as a result of its present and future tax amnesty programmes in order to prevent the misuse of these programmes for the dissimulation of bribes.

²⁹ In total, the Committee received 753 STRs in 2003, 20 of which were forwarded to the public prosecutor's office for prosecution, leading to EUR 30 million of assets being frozen. There are 131 STRs still under investigation, while the remaining cases have been closed because of insufficient evidence. In 2002, the Committee received 840 STRs, 30 of which were sent to the public prosecutor's office for prosecution, resulting in EUR 25 million of assets being frozen. There are 137 cases still under investigation.

³⁰ Katherimerini English Edition (4 February 2005), "Amnesty Fails to Lure Back Funds", Kathimerini English Edition, Athens.

9. Whistleblowing and Witness Protection

(a) Whistleblowing and Whistleblower Protection

89. According to Greek officials at the on-site visit, whistleblowing frequently occurs in Greece because of a long-standing statutory provision which obliges all persons to report any crime of which they become aware to the public prosecutor or any law enforcement authority (Article 40, Code of Penal Procedure). The Greek authorities believe that there have been many convictions under this provision for failure to report a crime but they could not provide supporting statistics. They also added after the on-site visit that, according to a recent report, the Hellenic Police has been receiving fewer reports from whistleblowers, but that a higher percentage of reports are from identified sources.

90. Representatives from the private sector and civil society had a different view. One representative stated that Greeks are generally reticent to whistle-blow because of recent historical events. This is consistent with a recent statement by the Greek government.³¹

91. The reluctance to whistle-blow could be partly due to a lack of government initiatives in this area. The SDOE may be one of the few government bodies which have made any efforts in this regard. It stated that it had sent letters and circulars asking citizens and companies to report any wrongdoing of which they become aware. It visited companies and business associations for the same purpose. It created a committee and a hotline to receive complaints. Nevertheless, it is unclear how much emphasis was placed on foreign bribery in these initiatives. According to Greece's response to the Phase 2 Questionnaire at p. 7, the hotline appears to be used primarily for reporting tax offences.

92. Another reason for the lack of reporting may be inadequate protection for whistleblowers from reprisals by their employers. There are no laws which specifically deal with this issue. At the on-site visit, one academic and one judge believed that a whistleblower could use Article 281 of the Civil Code (which deals with an abuse of rights) to sue an employer for unjust dismissal. Other participants stated that the provision either did not apply or could only be used as a last resort.

93. In the absence of specific legislation, protection of whistleblowers needs to come from collective agreements and corporate codes of conduct. The availability of these sources in Greece appears uncertain. The Code of Civil Servants (Law 2683/1999), which applies to most civil servants, and the Code of Conduct for Companies Listed on the Athens Stock Exchange and Connected Persons (CMC Rule 5/204/14/14.11.2000) do not refer to reporting of crimes. A representative of a labour union believed that there would be sufficient protection only if an allegation is true. Most major companies have codes of conduct, but copies of the codes provided to the examination team contain little to encourage or protect whistleblowers. One company stated that its code of conduct offered protection of a whistleblower's identity.

94. Greek officials stated that their government is considering expanding the scope of whistleblower protection. The degree of expansion, if any, is expected to be small because of cost.

Commentary

The lead examiners recommend that Greece undertake initiatives to encourage whistleblowing by employees (in both the public and private sectors) and to remind employees of their legal obligation to report crimes. The lead examiners further recommend that Greece consider

³¹ GRECO (17 May 2002), *Evaluation Report on Greece, First Evaluation Round*, Council of Europe, GRECO, Strasbourg, para. 10.

introducing measures to protect whistleblowers (in both the public and private sectors) from dismissal or other forms of retaliation.

(b) Witness Protection

95. In Greece, witness protection is only available to “essential” witnesses who provide information on the activities of a criminal or terrorist organisation (Article 9, Law 2928/2001). As with whistleblower protection, the government is considering extending witness protection to other crimes. Again, the degree of expansion, if any, is expected to be small for reasons of cost.

Commentary

The lead examiners recommend that Greece consider making witness protection programmes available in foreign bribery cases.

C. INVESTIGATION OF FOREIGN BRIBERY

1. Law Enforcement Authorities in Greece

(a) Responsibility for Investigating Foreign Bribery

(i) Division of Competence between the Body for the Prosecution of Economic Crime and the Internal Affairs Division of the Hellenic Police

96. On a facial reading of the relevant legislation, investigations of domestic and foreign bribery fall within the competence of different agencies. Responsibility for investigating domestic bribery falls to the Internal Affairs Division of the Hellenic Police (IAD) under the Ministry of Public Order (Article 1(2), Law 2713/1999, as amended by Article 2(1), Law 3103/2003). Responsibility for investigating foreign bribery belongs to the Body for the Prosecution of Economic Crime (SDOE) under the Ministry of Economy and Finance (Article 4, Law 2656/1998). The SDOE is also responsible for investigating financial crimes which damage the state’s financial interests, trafficking of narcotics and firearms, and tax offences.

97. This division of responsibility was not so clear at the on-site visit. The Ministry of Justice, the SDOE and the IAD indicated that the SDOE has exclusive competence over foreign bribery. Judges, prosecutors and later the Ministry of Justice maintained that all police agencies and the SDOE are competent, even though this appears to directly contradict Article 4 of Law 2656/1998.

98. After the on-site visit, the Greek authorities indicated that Article 4 of Law 2656/1998 accords the SDOE primary responsibility for the implementation of the Convention and the investigation of foreign bribery cases. Nevertheless, if a case of foreign bribery is reported to the police or the public prosecutor, these bodies will immediately investigate the case after notifying the SDOE.

(ii) The Special Investigations Service

99. After the on-site visit, Greece substantially overhauled the SDOE by replacing it with the Special Investigations Service (YPEE) (Law 3296/2004). The internal structure of the YPEE significantly differs from that of the SDOE. Under the new legislation, responsibility for investigating foreign bribery falls to the Department of Mutual Administrative Assistance and Controls of the Directorate of Administrative Support of the YPEE. The Department is also responsible for investigating domestic corruption and for reviewing financial audit controls when there are reasonable grounds to suspect fraud. The YPEE plans to

make an official announcement on its competence, with particular emphasis on its responsibility for investigating foreign bribery.

(iii) *Conclusion*

100. The assignment of responsibility for investigating foreign bribery is less clear in practice than as described in Law 2656/1998 (as amended by Law 3296/2004). What is clear is that both the IAD and the YPEE (previously the SDOE) have competence to investigate foreign bribery. This raises several potential concerns, *e.g.* the possibility of concurrent investigations, co-ordination of investigations by different agencies, information sharing and conflicts of competence. The recent restructuring of the SDOE does not appear to clarify these issues.

Commentary

The lead examiners recommend that Greece establish procedures for co-ordination, sharing information and resolving conflicts of competence between the IAD and the YPEE. They also recommend that the Working Group monitor this issue as cases develop.

(b) *Training and Resources*

(i) *The Body for the Prosecution of Economic Crime (SDOE)*

101. The SDOE has 1 000 officers and 300 administrative personnel. A share of the budget of the Ministry of Finance and Economy (MOFE) is allocated to the SDOE, although officials at the on-site visit could not indicate the amount or portion that was allocated. Representatives of the SDOE at the on-site visit indicated that its human and financial resources were “satisfactory”.

102. Members of the SDOE are trained by the MOFE. These members are highly experienced in the investigation of tax and customs offences because they are mainly seconded from the MOFE. Experience and training in corruption offences may be more limited. Members are required to attend courses on bribery generally and to participate in training activities organised by the School of Public Administration. They are asked to confirm in writing that they have read Law 2656/1998 and that they are aware of the Law’s contents. The SDOE has organised various seminars on the Convention and the implementing legislation at the central level in Athens but not at the regional level.

103. SDOE officers outside of Athens offered a slightly different view. They stated that there had been no seminars on (domestic or foreign) bribery or the Convention. In their view, the Convention is new and it will take time before foreign bribery cases are detected.

104. The lead examiners are concerned that members of the SDOE may not be sufficiently trained in the area of foreign bribery. SDOE members are drawn from the Ministry of Finance and Economy, not law enforcement agencies. While SDOE members are trained on theoretical issues such as the content of Law 2656/1998, they do not appear to have been trained on the practical aspects of bribery investigations, such as the *modus operandi* of these crimes or the means to gather evidence. Unlike the IAD (which deals with domestic bribery offences), the SDOE has no experience in investigating bribery offences. It may be advantageous to assign competence to investigate domestic and foreign bribery to a single agency, so that experience in domestic bribery investigations can be used in foreign bribery investigations.

105. After the on-site visit, Greece stated that the creation of the YPEE will necessitate “a complete reshuffle” of its training schedule and that particular emphasis will be placed on all forms of international economic crime. However, no other details were provided.

Commentary

The lead examiners recommend that Greece provide training on the practical aspects of foreign bribery investigations to members of the YPEE. They also recommend that Greece consider assigning the competence for investigating domestic and foreign bribery to a single law enforcement agency.

(ii) *Internal Affairs Division of the Hellenic Police (IAD)*

106. Two institutions provide training to the officers of the IAD. The Greek Police Academy, which has recently acquired the status of a university, offers a four-year programme to new recruits who have passed an entrance examination. The Academy also provides lectures and graduate programmes to all serving officers in Greece. In addition, the National Security School offers training to serving officers at regular intervals.

107. In terms of curriculum, the Academy's programmes include components on money laundering and domestic bribery. Foreign bribery was added only in 2004. In 2005, both the Academy and the National Security School plan to offer a series of lectures by SDOE and IAD officers on the practical aspects of domestic and foreign bribery investigations.

108. The Hellenic Police offers additional seminars on matters such as money laundering, but there have been no seminars on corruption, whether domestic or foreign.

Commentary

The lead examiners recommend that the Greek Police Academy and the National Security School implement their initiatives to provide training programmes on the practical aspects of foreign bribery investigations to police officers and recruits.

2. Prosecutors and the Judiciary

109. The National School of Judicature in Thessaloniki provides an 18-month training programme to new judges and prosecutors. The programme includes training on theoretical and practical issues. In November 2004, the School offered courses on corruption and foreign bribery for the first time.

110. The School also provides continuing education through seminars and courses, although it has only offered seminars on corruption generally and not on foreign bribery. It had planned to hold a criminal law conference in early November 2004 which would include issues such as corruption, foreign bribery and the Convention, but it is not clear whether this initiative has been implemented. According to the Greek authorities, judges and prosecutors outside of Athens receive similar training on topical issues and developments in the law, although training procedures emanate from Athens.

111. The Association of Juridical Studies is a separate body that provides additional training to appellate judges on developments in the law. It is not clear whether the Association has provided any training on foreign bribery.

Commentary

The lead examiners recommend that the National School of Judicature continue its training programmes on foreign bribery for prosecutors and judges, including new recruits.

3. Lifting Bank Secrecy

112. The SDOE may obtain bank information. SDOE officers may, in the course of the exercise of their duties, access bank data subject to bank confidentiality under the direction of a prosecutor attached to the SDOE (Articles 2(6) and 4(12), Law 2343/1995). The YPEE has retained the same powers.

113. The IAD may lift banking confidentiality when investigating bribery. The investigative powers of the IAD are governed by its enabling statute (Law 2713/1999). Article 6(2) of that Law states that a prosecutor may request the lifting of bank secrecy during the preliminary investigation of any offence within the remit of the IAD.

4. Mutual Legal Assistance and Extradition

(a) Mutual Legal Assistance

114. The significance of mutual legal assistance under the Convention is two-fold. First, parties to the Convention are obliged to provide prompt and effective legal assistance to other parties to the fullest extent possible under their laws, treaties and arrangements (Article 9). Second, in order to effectively prosecute foreign bribery, parties themselves must be able to seek and use evidence from abroad efficiently.

115. According to the Greek authorities, Greece has signed bilateral and multilateral treaties on mutual legal assistance with almost all of its major trade and investment partners.³² The execution of requests is governed primarily by Articles 457-461 of the Code of Penal Procedure. The same procedure applies regardless of whether the target of an investigation is a legal or natural person. Dual criminality is not a prerequisite to rendering assistance. Since 2000, the Ministry of Justice has handled more than 15 000 requests, but none involving foreign bribery. During that time, the Ministry rejected only one request for assistance. It usually takes between one month and one year for Greece to comply with a request.

(b) Extradition

116. Greece has extradition relations with most of its trade and investment partners.³³ In addition, the Convention may serve as a treaty for extradition to and from another party state. Greece has also implemented the European Arrest Warrant (Law 3251/2004). Reciprocity and dual criminality are prerequisites to granting extradition. Greek nationals cannot be extradited but will be prosecuted in Greece. Since 2000, the Ministry of Justice has handled more than 380 extradition requests (both incoming and outgoing), none of which involved foreign bribery. According to the Greek authorities, an incoming extradition request is usually executed within three months.

D. PROSECUTION OF FOREIGN BRIBERY AND RELATED OFFENCES

1. The Offence of Foreign Bribery

(a) Elements of the Offence

(i) Definition of “Foreign Public Officials”

117. At the time of the Phase 1 review, Law 2656/1998 did not define “foreign public officials”. The Greek authorities stated that Greek courts would therefore refer to the definition of “public officials” in the

³² See Annex 3 for a complete list.

³³ See Annex 3 for a complete list.

domestic bribery provisions of the Penal Code for guidance. Nevertheless, the Working Group was concerned that the definition in the Penal Code was narrower than the one in the Convention.

118. Greece has amended Law 2656/1998 since the Phase 1 review. Article 2(1) of Law 2656/1998 now prohibits bribery of “a foreign public official, in the meaning of the OECD Convention ratified in article 1 of the present Law.” This reference to the Convention should fully import the definition of “foreign public officials” from the Convention into Law 2656/1998, thus eliminating the earlier concerns.

(ii) *Use of an Official’s Position in Excess of His/Her Powers and Direct Application of the Convention*

119. In the Phase 1 review (at pp. 4-5), Greece stated that, “According to legal doctrine and case law, an offence is committed solely when the official acts or refrains from acting in the performance of duties assigned to him by a law, decree, regulation, circular or instruction; it is not committed when an official makes use of his position in excess of his powers.” However, pursuant to Article 28(1) of the Constitution, Greek courts would directly apply the Convention to extend Law 2656/1998 to cover these situations:

28.(1) The generally recognised rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.

120. Officials at the on-site visit elaborated that, because of this provision in the Constitution, ratified international conventions form part of domestic Greek law and have greater force than a domestic statute (but less than the Constitution). Courts generally interpret statutes in a manner consistent with international conventions and will declare statutes that conflict with such conventions to be of no force and effect.

121. Notwithstanding the assurances of the Greek authorities, the Working Group in Phase 1 doubted that the direct application of the Convention could remedy shortcomings in Law 2656/1998.

122. During the on-site visit, Greece maintained this position. After the on-site visit, however, Greece contended that the wording of Article 2(1) of Law 2656/1998 covers bribery of an official who uses his/her position in excess of his/her powers. There is no need to resort to direct application of the Convention.³⁴ Greece did not provide case law supporting its latest position.

(iii) *Bribery by a Best-Qualified Bidder*

123. Law 2656/1998 prohibits bribes in order to obtain or retain “an unfair business or other advantage of pecuniary or any other nature that is not due”.³⁵ In the Phase 1 review (at p. 5), some doubts were expressed over whether the law covers a briber who is the best-qualified bidder as required by Commentary 4 of the Convention. Again, Greece responded that the direct application of the Convention would cure any deficiencies.

124. Greece has not amended Law 2656/1998 in this regard since the Phase 1 review. During the on-site visit, Greece maintained this position. After the on-site visit, however, the Greek authorities stated that

³⁴ The direct applicability of the Convention will be discussed in Section D.1.(c)(iii).

³⁵ In Phase 1, this portion of Law 2656/1998 was translated as bribery “in order to obtain or retain improper advantage or any other improper benefit”.

the wording of Article 2(1) of Law 2656/1998 covers bribery by someone who is the best-qualified bidder. There is no need to resort to direct application of the Convention. Greece did not provide case law in support of its position.

(iv) *Conclusion*

125. The lead examiners appreciate Greece's amendment to Law 2656/1998 to expressly refer to the Convention's definition of a "foreign public official". Yet they remain concerned that Law 2656/1998 does not cover bribery of a foreign public official who uses his/her position in excess of his/her powers, or a briber who is the best-qualified bidder.

Commentary

The lead examiners recommend that the Working Group monitor whether Law 2656/1998 covers the following situations as case law develops (1) bribery of a foreign public official who uses his/her position in excess of his/her powers, and (2) a briber who is the best-qualified bidder.

(b) *Jurisdiction*

(i) *Territorial Jurisdiction*

126. Article 4(1) of the Convention requires a party to "establish its jurisdiction over the bribery of a foreign public official when the offence is committed in whole or in part in its territory." Under Greek law, territorial jurisdiction applies "to all acts committed on the Greek territory, even if committed by foreign nationals." An act is considered committed at a place "where the culpable person committed the punishable act or omission in whole or in part, as well as the place where the punishable result occurred [...]" (Articles 5 and 16, Penal Code).

127. The Greek authorities assert that the breadth of these provisions is clear. For instance, territorial jurisdiction applies when a person in Greece arranges a meeting with (but does not offer or promise a bribe to) a foreign public official by telephone. The individual then flies to the foreign country, and offers and gives a bribe to the foreign public official. It is also not clear whether territorial jurisdiction applies when a person in Greece instructs an agent who is overseas to offer a bribe to a foreign public official. Greece, however, did not provide case law in support of this position.

(ii) *Nationality Jurisdiction*

128. Parties to the Convention which have jurisdiction to prosecute their nationals for offences committed abroad must establish the same jurisdiction for foreign bribery, according to the same principles (Article 4(2), Convention). In Greece, because foreign bribery is a misdemeanour, nationality jurisdiction can be asserted only upon the complaint of the government of the country in which the crime was committed.³⁶ An official at the on-site visit explained that the reason for this requirement was respect for a foreign state's sovereignty.

³⁶ Article 6 of the Penal Code reads:

6.(1) Greek penal laws also apply on any act that they regard as a felony or misdemeanour, which has been committed abroad by a Greek, if such act is regarded as a punishable act by the laws of the country where it has been committed, or if it has been committed in a country under constitutional turmoil.

129. In the Phase 1 review (at p. 18), the Working Group questioned the effectiveness of this basis for asserting nationality jurisdiction. Greece has made no legislative amendments in this regard. It also has not provided any case law or explanation to alleviate these concerns.

130. The lead examiners also have some doubts over the reason for the requirement of a complaint by a foreign government, namely respect for the foreign state's sovereignty. A complaint is not necessary to assert nationality jurisdiction to prosecute felony crimes. It is also not necessary to prosecute bribery of EU officials (Article 6, Law 2802/2000). Abolition of this requirement from foreign bribery under the Convention not only eliminates the concerns of the lead examiners, but it will also harmonise the legislative schemes for bribery of EU and non-EU officials.

131. After the on-site visit, the Greek authorities added that problems with nationality jurisdiction should rarely arise in foreign bribery cases. In their view, most foreign bribery cases also involve money laundering. In these cases, nationality jurisdiction need not be invoked because Greece's money laundering offence covers predicate offences that are committed outside of Greece. As well, Greece may invoke nationality jurisdiction to prosecute bribery of foreign judges without consent of a foreign state after that offence has been re-classified as a felony.

Commentary

Greece continues to require a complaint from the government of the country in which the crime was committed before asserting nationality jurisdiction to prosecute foreign bribery. The lead examiners recommend that Greece eliminate this requirement. They also recommend that the Working Group monitor Greece's exercise of territorial and nationality jurisdiction over foreign bribery offences as cases emerge.

(c) Defences and Exemptions from Prosecution

(i) Defences of Necessity and Extortion

132. Greek officials stated that the defence of necessity will not arise in a case of foreign bribery. The defence requires proof of imminent danger that is not due to the fault of the accused and which cannot be prevented by other means. The impact of the illegal act must also be substantially smaller "in form and significance" than the danger avoided (Article 25, Penal Code). An example is where a person breaks a window and enters a house in order to save an occupant from being murdered.

133. The Greek authorities stated that extortion in Greece is defined as a request for undue payment. Extortion is not a defence to bribery; on the contrary, if an official extorts from an individual and the individual pays the official, the individual will generally be guilty of bribery. The Greek authorities did not provide case law in support of this proposition since they do not believe that the defence has ever been raised in a domestic bribery case.

[...]

(3) In so far as misdemeanours are concerned, the victim's complaint requesting prosecution or a request for prosecution by the government of the country where the misdemeanour was committed is necessary in order for the provisions of paragraphs 1 and 2 to be applied.

According to the Greek authorities, there are no "victims" in an offence of bribery: "The good adversely affected by the offence of (active) bribery of a public official is the State" (Greece's response to the Phase 2 Questionnaire, p. 19).

(ii) *Defence of Effective Regret*

134. Article 236 of the Penal Code provides for a defence of “effective regret”. A briber is not punishable if he/she confesses to the crime before a preliminary examination by law enforcement authorities commences. A bribe that had been given is not confiscated but returned to the briber. Although Article 236 deals with domestic active bribery, Greek officials confirmed that the defence also applies to foreign bribery.

135. Greece elaborated on the defence after the on-site visit. When a briber reports the matter to the law enforcement authorities, a prosecution will be taken because the principle of mandatory prosecution continues to apply. Only a court may ultimately decide to terminate the prosecution against the briber. The trend of the Greek courts, however, is not to completely exonerate the briber, but to impose a light penalty, taking into consideration factors such as the degree of co-operation by the briber. Furthermore, the bribe is returned to the briber but any proceeds of bribery are confiscated under Article 76(1) of the Penal Code. Greece did not provide case law in support of its position.

136. This defence could contravene the Convention in some cases. A person who has given, offered or promised a bribe to a foreign public official (and hence has completed the offence within the meaning of Article 1 of the Convention) could in some cases remain unpunished if he/she makes a sufficiently early confession. The Convention does not contemplate liability to be imposed on such qualified terms.

Commentary

The lead examiners recommend that the Working Group monitor the application of the defence of “effective regret” in Article 236 of the Penal Code in foreign bribery cases.

(iii) *Political Offences and Offences Affecting International Relations*

137. In Greece, “political offences” and “offences through which the international relations of the state may be disturbed” could be exempt from prosecution. The Minister of Justice, following a concurring opinion of the Council of Ministers, may postpone or suspend a prosecution of such offences (Article 30(2), Code of Penal Procedure).

138. The Greek authorities elaborated that there are no clear definitions of “political offences” and “crimes through which the international relations of the state may be disturbed”. There are also no rules or guidelines governing the use of this provision. A decision of the Minister of Justice to invoke this provision is purely political in nature. A judge at the on-site visit opined that the provision is essential to Greece’s national security. Since its enactment in 1951, the provision has been used no more than twice.

139. If invoked in a foreign bribery case, this exemption from prosecution contradicts Article 5 of the Convention, which requires that investigations and prosecutions of foreign bribery shall not be influenced by “the potential effect upon relations with another State”. The exemption may also contradict Commentary 27, which states that prosecutorial decisions should not be “subject to improper influence by concerns of a political nature”.

140. Nevertheless, the Greek authorities maintain that this exemption does not apply to foreign bribery. In their view, Article 5 of the Convention supersedes Article 30(2) because of the direct application of the Convention: “The courts are well tuned to this arrangement [of directly applying international conventions] and they readily identify domestic provisions *rendered inapplicable* because of their incompatibility with an international convention” (Response to Phase 2 Questionnaire, p. 3; italics)

added).³⁷ One academic in criminal law added that the Convention takes precedence because the Convention was ratified after Article 30(2) was enacted (*lex posterior derogat legi anteriori*).

141. Greece referred to two cases in support of its position. In the first case, the Greek government neglected to designate certain wetlands for environmental protection as required by an international convention. A Greek court took notice of the convention and made the designation. In the second case, a Greek court held that a prohibition on purchasing property in a border area contravened an EU convention. Accordingly, the court struck down the prohibition and applied the EU convention.

142. Notwithstanding Greece's assertions to the contrary, the lead examiners remain doubtful that the Convention can directly cure any defects in Law 2656/1998. First, in the only cases that the Greek authorities have referred to, the courts either struck down a domestic statute or implemented an international convention to the benefit of a private individual. This is fundamentally different from using an international convention to enlarge the scope of a domestic criminal offence. Such a measure will generally be to the detriment of an accused. Indeed, Greek officials at the on-site visit agreed that the principle of legality (*nullum crimen sine lege*) in Greek jurisprudence would prohibit extending criminal statutes in this manner. They also stated that there are no cases in which a Greek court has done so.

143. Second, Greece may have weakened its position by amending Law 2656/1998 to expressly refer to the Convention's definition of "foreign public officials". Greek courts may take the amendment as an admission by the legislature that, absent an express reference to the Convention in Law 2656/1998, the Convention does not directly apply.

144. Third, Greece admits that the Convention is not self-executing. Article 1 of the Convention does not stipulate that foreign bribery is an offence, but merely that parties to the Convention shall take necessary measures to criminalise foreign bribery. As such, domestic legislation is necessary to implement the Convention in Greece.

145. Finally, Article 28(1) of the Constitution is not always operable. The article only applies to aliens (presumably non-Greek nationals) "under the condition of reciprocity." Thus, even if Article 28(1) can be used to directly apply the Convention, Greek courts will do so only against persons whose home countries have criminalised foreign bribery (*e.g.* other parties to the Convention).

146. In sum, the lead examiners doubt that Convention can be directly applied to Law 2656/1998 to exclude the exemption in Article 30(2) of the Code of Penal Procedure in foreign bribery cases. If the exemption is available in foreign bribery cases, then there are insufficient guarantees to ensure that political considerations do not influence a decision to not prosecute. There are no guidelines on how the Minister of Justice exercises his/her discretion. There are also no mechanisms to independently review the Minister's decision. Since the decision results in no legal proceedings being taken, the case would not reach the courts. One legal academic suggested that the only possibility of judicial review is when a prosecutor blatantly disobeys the Minister and forges ahead with prosecution. The likelihood of this occurring is more than questionable.

Commentary

The lead examiners recommend that Greece amend its legislation to expressly exclude the operation of Article 30(2) of the Code of Penal Procedure from the offence of foreign bribery.

³⁷ See section D.1(a)(ii) Direct Application of the Convention.

(iv) *Immunity from Prosecution for Present and Former Ministers and Deputy Ministers*

147. Article 86(1) of the Constitution provides immunity from prosecution for certain members of the Greek government. “Only the Parliament is competent to press charges against those who are or were members of the Government or Deputy Ministers for criminal offences committed by them during the discharge of their duties, as stipulated by the law.” This raises two issues: when does Article 86(1) apply and how immunity can be lifted.

To Whom Is Immunity Available

148. Article 86(1) applies to “those who are or were members of the Government or Deputy Ministers”. Greek officials explained that these include Ministers and Deputy Ministers, who may be non-elected officials.

149. The lead examiners are concerned that immunity under Article 86(1) may be applied in a case of foreign bribery. Immunity arises when a crime is committed “during the discharge of duties, as stipulated by law”. This conceivably covers a Minister who is responsible for promoting Greek business interests overseas, and who bribes a foreign public official so that a contract is awarded to a Greek company. Greece responded that immunity would not be granted in such a case even though the crime was committed in the interest of the state. There appears to be no cases in support of this position.³⁸

Lifting of Immunity

150. If Article 86(1) may apply to a foreign bribery case, the next question is how immunity may be lifted. When a law enforcement official suspects that a present or former Minister or Deputy Minister has committed a crime, the case is referred to Parliament immediately. Upon the written request of 30 Members of Parliament, a special Parliamentary committee is convened to investigate the case. The committee has the same powers as a public prosecutor of the court of first instance. When the investigation is completed, formal criminal charges are laid only if a majority of the Parliament in plenary session agrees. If charges are pressed, the case is tried by a Special Court consisting of members of the *Areios Pagos* and Council of State (Article 86, Constitution and Law 3126/2003).

151. The lead examiners are concerned that political factors may affect a decision to not prosecute a foreign bribery case under this procedure. When immunity arises, Parliament (not a public prosecutor) must decide whether to prosecute; the usual principle of mandatory prosecution does not apply. There appears to be no criteria or guidelines governing the making of this decision. Nor is the decision reviewable. Since Parliament is an inherently political organ, political factors could conceivably influence the decision, contrary to Commentary 27 of the Convention. The procedure may also contravene Article 5 of the Convention, which stipulates that investigation and prosecution of foreign bribery “shall not be influenced by national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved.”

³⁸

At the on-site visit, Greek officials referred to one case in support of their position that the Minister in the example would not be immune from prosecution. Greece provided a copy of this case to the lead examiners after the visit. In a decision of the Special Court dated 11 August 1990, the Court convicted a former Deputy Minister for instigating others to make false declarations. The Deputy Minister, acting in the national interest, had arranged for forgery of documents which falsely stated the origin of a quantity of corn so that a company could avoid paying duties. Thus, the case stands for the proposition that instigating forgery in the “national interest” is not a defence to the crime; it does not stand for the proposition that Article 86(1) could never apply to a Deputy Minister who so acts in the national interest. To the contrary, because the case was tried by a Special Court, it appears that Article 86(1) and the procedure for lifting immunity prescribed therein (see next section) did in fact apply to the case.

Commentary

The lead examiners are concerned that process of granting immunity from prosecution under Article 86(1) of the Constitution may be influenced by the factors listed in Article 5 and Commentary 27 of the Convention. Therefore, they recommend that the Working Group monitor this issue as cases develop.

(d) Limitation Periods and Delays in Proceedings

152. To effectively combat foreign bribery, any statute of limitation applicable to the offence must allow adequate time for investigation and prosecution (Article 6, Convention). In Greece, since foreign bribery is a misdemeanour, the limitation period for completing a prosecution (including any appeals) is five years. Time begins to run when the offence has been committed. Once proceedings are commenced, the limitation period is suspended for up to three years until a conviction becomes irrevocable (*i.e.* all appeals have been exhausted). Taken together, these provisions require proceedings (including appeals) to conclude within eight years of the commission of the crime (Articles 111-113, Penal Code).³⁹

153. Compared to other jurisdictions, the length of the limitation period for foreign bribery in Greece is *prima facie* unremarkable. Even so, the lead examiners are concerned that lengthy delays in the Greek criminal justice process may cause limitation periods to expire in foreign bribery cases.

154. There are reports of significant delays in the Greek criminal justice system. Greece stated that “[e]xact numbers are not available but among recently reported cases there is only one instance of a case that succumbed to the statute of limitations: *Athens Court of Appeal 478/2000*” (response to the Phase 2 Questionnaire, p. 21). On the other hand, the Minister of Justice recently admitted that “[i]t takes two to three years for a definitive ruling, five to six for a final one and seven to eight for an irrevocable one. [In March 2004], appeals against rulings by the Three-Member Criminal Appeals Court are not scheduled until 2007.”⁴⁰ Another source states that “courts have a heavy backlog of cases and rigid procedures lead to long delays; cases are frequently abandoned because of the statute of limitation.”⁴¹

155. Representatives of the Greek judiciary at the on-site visit agreed that delay may indeed be a problem. The lack of material resources and a shortage of courtrooms are contributing factors. Consequently, judges carry extremely heavy caseloads. One legal academic described the court process as cumbersome and that litigants can easily seek adjournments (though less so in criminal cases). A recent strike by barristers has worsened the problem by creating backlogs. One judge believed that a longer period should apply to bribery cases involving large sums of money.

156. Problems with delay are exacerbated in foreign bribery cases, since such cases are often complex and involve gathering evidence from overseas, thus adding to the length of proceedings. Parenthetically, if foreign bribery is re-classified as a felony, the limitation period for the offence would be increased to 25 years (Article 111(2)(b), Penal Code), which would eliminate any concerns.

³⁹ The limitation period may also be suspended if “prosecution may not commence or continue according to a provision of law” (Penal Code, Article 113(1)).

⁴⁰ Katherimerini English Edition (15 March 2004) “Everyone is Equal Before the Law and No One Should Enjoy Impunity”, Katherimerini English Edition, Athens; Kalliri, F. (15 March 2004) “Slow Mills of Legal System to Grind Faster”, Katherimerini English Edition, Athens.

⁴¹ The Economist Intelligence Unit (2004), *Country Profile – Greece*, The Economist Intelligence Unit, London, p. 7.

157. After the on-site visit, Greece added that Law 2656/1998 will be amended to re-classify bribery of a foreign judge as a felony. The limitation period for such an offence would accordingly be increased.

Commentary

The lead examiners recommend that Greece ensure delays in proceedings do not result in the expiry of limitation periods in foreign bribery cases.

2. Liability of Legal Persons

158. Article 2 of the Convention obliges parties to establish the liability of legal persons for foreign bribery. Since criminal liability cannot be attributed to legal persons under the Greek Constitution, Article 5 of Law 2656/1998 imposes administrative liability against legal persons for foreign bribery. Because Greece has had no prosecutions for foreign bribery, the operation of this provision remains untested.

(a) Scope of Application

159. In the Phase 1 review (at p. 17), the Working Group noted that Law 2656/1998 only imposes administrative liability against “enterprises and not all legal persons – such as foundations, associations or other civil bodies – which can be used in the commission of bribery”. Since then, Greece has amended Article 5 of Law 2656/1998 to cover “any legal entity or undertaking”, which, according to the Greek authorities, includes all legal persons and enterprises (Article 9, Law 3090/2002).

(b) Fault of Managers

160. Law 2656/1998 imposes administrative sanctions against a legal person for foreign bribery upon the “fault of its managers”.⁴² This raises two questions: the scope of “managers” and the meaning of “fault”.

161. Law 2656/1998 does not define the scope “managers”. In its response to the Phase 2 Questionnaire at pp. 13-14, Greece stated that:

Generally speaking, however, the term “management” covers the statutory organs of the legal entity, as stipulated in the law and its own constitution.

According to Article 71 of the Civil Code, a legal person is held liable for the acts or omissions of the organs which represent it. Non-senior management or other employees do not usually bind the legal person and thus any personal fault of the employee does not necessarily entail the responsibility of the legal person.

162. Likewise, Law 2656/1998 does not define the meaning of “fault”. Greece explained that “if the employee in question acted on behalf of the entity upon a direct order or the implied consent of the constitutional organs of the legal person, then, under Articles 334 and 922 of the Civil Code, the legal person is also held liable for the fault of the natural person as well” (response to the Phase 2 Questionnaire, p. 14). During the on-site visit, law enforcement representatives and one prosecutor added that “fault” likely encompasses both intentional acts and omissions. One academic stated that a legal person likely will not be liable for an offence committed by a natural person (the principal offender) because of “loose management structures” within the legal person.

⁴² In Phase 1, this was translated as “the fault of senior management” (underlining added).

163. The lead examiners are concerned that the element of “fault of managers” imposes an overly onerous threshold for liability. The concept requires proof that the principal offender acted “upon a direct order or the implied consent of the constitutional organs of the legal person”. At a minimum, this may require proof that the constitutional organ of a legal person knew of or was wilfully blind to the acts of the principal offender. Inadequate supervision by the organ may not suffice. In a multinational corporation, it is unlikely that a board of directors would be aware of the detailed activities of an overseas sales office that may deal with foreign public officials on a day-to-day basis.

164. The lead examiners are further concerned that sanctions are triggered only by the acts of an unduly small set of persons associated with a legal person. Liability only arises upon the fault of the constitutional organs of a legal person, such as a board of directors. Thus, blameworthy acts of officers, managers and employees will not attract liability for the legal person. In reality, these are often persons who commit or authorise bribery.

Commentary

The lead examiners recommend that Greece ensure that liability of legal persons for foreign bribery is effective, particularly regarding (i) the threshold for imposing liability, and (ii) the categories of persons whose acts may trigger the liability of a legal person.

(c) Jurisdiction

165. Law 2656/1998 does not specify the circumstances under which there will be jurisdiction to proceed against a legal person for foreign bribery. Greece stated that such jurisdiction is determined according to the “effective seat” theory. Greek laws apply to all legal persons which have a registered office or an “effective seat” in Greece. An effective seat is the place where a legal person carries out its management, unless otherwise provided in the deed of constitution or the articles of incorporation (Article 64, Civil Code and response to the Phase 2 Questionnaire, p. 14). Furthermore, the Greek authorities believe that there is a trend in which Greek courts tend to accept rather than reject jurisdiction.

166. The lead examiners have some concerns that a legal person operating in Greece could avoid the application of Greek law merely by designating its seat to be outside of Greece through its constitution or articles.⁴³ The jurisprudence on this point is apparently inconsistent.⁴⁴

167. The lead examiners are further concerned that Law 2656/1998 may be unduly restrictive, in that it applies only to companies that carry out their management in Greece. Under this approach, the Law may

⁴³ In Symeonides, S.C. (1993) “The General Principles of the Civil Law”, *Introduction to Greek Law*, Kluwer and Sakkoulas, Deventer, p. 58, the author states that:

The seat of the legal person is the place designated by the charter, or, in the absence of such designation, at the place where its central administration is located. While it is disputed whether a legal person may have multiple general seats, a “special seat” in addition to the general seat is clearly permissible [...]

⁴⁴ In Kozyris, P.J. (1993) “Conflict of Laws, Nationality, International Jurisdiction and Recognition and Enforcement of Judgments and Awards”, *Introduction to Greek Law*, Kluwer and Sakkoulas, Deventer, p. 307, the author states that:

Seat is only one and is located at the *situs* of management and, according to the majority view, it must be real and it will not suffice for it to be merely stated in the charter (see AP 1082/1990, Hell Dni 32 (1991) 794; 178/1991, Hell Dni 32 (1991) 1240; 711/1991, Hell Dni 33 (1992) 122; Piraeus Three-member District Court 1858/1990, E. Nautil. D. 1991. 20).

not apply to a legal person who has numerous sales or operation offices in Greece but whose management office is abroad.

168. According to the Greek authorities, Greek laws also apply to a foreign subsidiary whose parent company is located in Greece if there is “sufficient connection” between the subsidiary and its parent. What amounts to sufficient connection is not clear.

Commentary

The lead examiners are concerned that the effective seat theory may not provide a sufficiently broad jurisdictional base for imposing liability against legal persons for foreign bribery. They recommend that the Working Group monitor this issue as cases develop.

(d) Proceedings in Relation to Principal Offender

169. Article 5 of Law 2656/1998 contemplates proceedings against a legal person that are separate from those against the principal offender. Proceedings against legal persons are governed by the Administrative Code, not the Code of Penal Procedure. A public prosecutor is not involved in the process. Administrative sanctions against legal persons are not imposed by a court but by the SDOE after it conducts an investigation, although the decision of the SDOE can be appealed to the Council of State. According to the Greek authorities, “the outcomes of the two proceedings have no bearing on each other: the legal person may still be subject to an administrative fine, although the natural persons, who comprise the Board of Directors, may be found not guilty of the particular offence.”

170. There are obvious advantages to this approach. Obstacles in proceedings against a principal (*e.g.* where the principal has absconded or died) will not impede proceedings against a legal person. Administrative procedures may be simpler and more expedient than criminal ones.

171. But there may also be drawbacks. This approach results in duplicate proceedings in two different forums, which requires additional resources. The prosecutor in the criminal proceedings against the principal may use a law enforcement agency other than the SDOE to investigate, which raises issues of co-ordination and information sharing between the SDOE and the other agency. Inconsistent verdicts against the principal and the legal person may raise questions about fairness. An academic at the on-site visit shared some of these concerns and called for joint proceedings for a principal offender and a legal person.

172. A further question is what will actually happen in practice. At the on-site visit, the SDOE stated that although Law 2656/1998 gives it competence to investigate foreign bribery, the government has not enacted by-laws or decrees to create an institutional framework to implement the Law. Consequently, in practice the SDOE would proceed against a legal person only upon the conviction of the principal. Whether SDOE will refuse to proceed even when such a conviction is impossible (*e.g.* the principal has died) remains to be seen.

Commentary

The lead examiners recommend that the Working Group monitor the effectiveness of the system of concurrent proceedings against the principal offender and a legal person in Greece. They also recommend that the Working Group monitor whether in practice proceedings against legal persons will be taken independently of proceedings against a principal offender, including whether conviction of the principal is a prerequisite.

(e) *Investigative Issues*

173. The Greek authorities confirmed that the same investigative tools may be used in investigations against legal and natural persons. The investigative powers of the SDOE derive from its enabling statute (Law 2343/1995). This statute makes no distinction between investigations of natural or legal persons.

3. False Accounting and Auditing

(a) *Scope of the Offence*

174. Article 8(1) of the Convention obliges Parties to prohibit the making of off-the-books accounts or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, and the use of false documents for the purpose of bribing foreign public officials or of hiding such bribery.

175. Greece has implemented this provision through Article 3 of Law 2656/1998. Greek tax legislation (particularly Decree 186/1992) may also prohibit the same activities. Greece also asserts that Article 3 of Law 2656/1998 applies both to natural and legal persons.

Commentary

The lead examiners recommend that the Working Group monitor the application of the false accounting offence in Article 3 of Law 2656/1998 to legal persons, in order to determine whether Greece can effectively address accounting offences connected with the concealment of foreign bribery.

(b) *Types of Sanctions*

176. Article 3 of Law 2656/1998 provides for a maximum of three years imprisonment for false accounting for the purpose of hiding foreign bribery. There have been no prosecutions under this provision.

177. Tax statutes provide additional sanctions in certain circumstances. As noted in the Phase 1 review (at p. 13), activities described in Article 8(1) of the Convention and which result in loss of tax revenue for the Greek state are punishable by imprisonment of one to ten years. Filing false tax documents is also punishable by imprisonment of one to three months. Greece has provided statistics on such cases for 2001-2003, which show that extremely large amounts have been levied against enterprises.⁴⁵ Nevertheless, Greece did not provide the circumstances of these cases (e.g. whether these cases involve the activities described in Article 8(1) and, if so, the amounts involved). Furthermore, the Greek authorities stated that the amount of these levies could be altered upon appeal to the administrative courts.

178. Additional administrative sanctions are available. Representatives of Hellenic Capital Markets Commission (HCMC) stated that it may impose fines against natural and legal persons for false accounting which involve listed companies. In serious cases, the HCMC can suspend trading or revoke licences. In 2003, the HCMC imposed fines against 16 listed companies for failure to submit financial statements to the Commission and to disclose major events or daily transactions that affect share prices. Four listed

⁴⁵ From 2001-2003, SDOE investigated 1 450 cases involving use of fictitious and forged documents. It imposed sanctions in 965 cases. The maximum amount imposed was EUR 525 356 000.50. Levies of over EUR 1 million were imposed in 89 cases.

companies were fined for providing misleading information and delays in the publication of financial statements.⁴⁶ It is not clear whether these cases involved fraudulent accounting.

(c) Suspension of Sentences and Conversion of Sentences to Fines

179. The Greek Penal Code provides a system of converting sentences to fines which may drastically reduce the severity of a sentence. Conversion is mandatory for jail sentences of less than one year. It is discretionary for sentences between one and three years, taking into account whether the offender is a recidivist and whether incarceration is necessary to deter the offender. At a rate of EUR 4.40 to 59.00 per day, a three-year sentence may be converted to a fine of up to EUR 64 605.00. The fine may be reduced by one-third if the offender is unable to pay and the crime is not related to “avid profiteering”. At the offender’s request, the fine may be further converted to the performance of community service at a rate of two to six hours of service per day of imprisonment (Article 82, Penal Code).

180. In addition, jail sentences may be suspended. Suspension is mandatory for jail sentences of less than two years and discretionary for sentences between two and five years, having regard to factors such as the characteristics of the offender, the gravity of the crime and whether incarceration is needed to deter the offender. When suspending jail sentences of three to five years, a court will impose conditions on the offender, such as restrictions on the offender’s movement and periodic reporting to the police (Articles 99-100A, Penal Code).

181. The Greek authorities did not provide statistics on the frequency of conversion and suspension of jail sentences. A study published in 1999 stated that only 3% of the custodial sentences are served in prisons.⁴⁷

(d) Sufficiency of Sanctions

182. The lead examiners are concerned that sanctions for false accounting provided in Law 2656/1998 may not be effective, proportionate and dissuasive in view of the conversion and suspension of sentences. The limited statistical information available suggests that the majority of sentences for false accounting will be suspended or converted to a fine of no more than EUR 64 605. Fines at this level amount to no more than the cost of doing business. Conversion to community service and suspension of sentences worsen these concerns.

183. The sanctions under tax statutes and those imposed by regulatory bodies (such as the HCMC) do not eliminate these concerns. These sanctions do not necessarily apply to all of the activities described in Article 8(1) of the Convention, but only when those activities amount to additional offences (e.g. tax evasion). Furthermore, in the absence of more detailed statistics, the lead examiners are unable to conclude that these sanctions are effective, proportionate and dissuasive.

Commentary

The lead examiners recommend that Greece ensure that the penalties for false accounting in practice are effective, proportionate and dissuasive. They also recommend that Greece compile statistics on the criminal, civil and administrative sanctions that are imposed for false accounting.

⁴⁶ See also HCMC (2003), *2003 Annual Report*, HCMC, Athens, p. 119.

⁴⁷ Spinellis, D. and Spinellis, C.D. (1999), *Criminal Justice Systems in Europe and North America – Greece*, Heuni, Helsinki, pp. 37, 53 and 55.

E. SANCTIONS FOR BRIBERY OF A FOREIGN PUBLIC OFFICIAL

1. Sanctions against Natural Persons

(a) *Generally*

184. Bribery of domestic and foreign public officials is punishable in Greece by imprisonment of one to five years.⁴⁸ Fines are available.⁴⁹ The sanctions available for domestic active bribery are identical. Judges have discretion in determining the length of a sentence within this range, taking into account factors such as the gravity of the offence and the personal characteristics of the offender (Article 79, Penal Code).

185. These sanctions may be *prima facie* adequate but for the system of suspending sentences and converting sentences to fines, which results in a large number of jail sentences to be served out of custody (see Section D.3(c)). At the on-site visit, a judge stated that sentences for domestic bribery generally start at three years imprisonment and thus may not be eligible for conversion to fines or community service. A prosecutor opined that the range is usually two to five years. Greece did not provide statistics on the actual sanctions that have been imposed for domestic bribery.

186. The lead examiners are concerned that sanctions for foreign bribery in Greece may not be effective, proportionate and dissuasive. A sentence for foreign bribery may fall below three years and hence be eligible for conversion to a fine or community service. All sentences for foreign bribery are also eligible for suspension.

Commentary

The lead examiners recommend that Greece ensure that sanctions against natural persons for foreign bribery are effective, proportionate and dissuasive, in view of Greece's system for converting jail sentences. They also recommend that Greece compile statistics on the sanctions (including confiscation) for domestic and foreign bribery, including suspensions and conversions of sentences. Finally, they recommend that the Working Group monitor the level of sanctions imposed based on statistics provided by Greece.

(b) *Confiscation*

187. During the Phase 1 review, the Working Group noted that Article 2(2) of Law 2656/1998 provides for confiscation of “gifts offered or their value” but not “other undue advantages” or the proceeds of bribery. As noted earlier, Greece has since amended Article 2(2) to expressly provide for confiscation of the proceeds of bribery.

188. The concern over confiscation of “other undue advantages” remains. During Phase 1, Greece stated that this deficiency is remedied by Article 76(1) of the Penal Code, which expressly permits confiscation of “undue advantages”. Greece believed that Article 76(1) applies to Law 2656/1998 by reason of Article 12 of the Penal Code, which applies the general provisions of the Code to a special law (such as Law 2656/1998) unless a conflict results. Nonetheless, the Working Group doubted this conclusion since there may indeed be such a conflict in this case. By expressly covering confiscation of

⁴⁸ Law 2656/1998 does not specify a maximum term of imprisonment. However, since foreign bribery is a misdemeanour, Article 53 of the Penal Code states that the maximum term is five years.

⁴⁹ During the Phase 1 review (p. 7), Greece stated that fines were not available for domestic and foreign bribery. During the Phase 2 examination, Greece stated that its earlier position was incorrect. Fines are available under Article 81 of the Penal Code.

only gifts and proceeds, it is arguable that the legislature had intended to exclude other types of property (e.g. undue advantages) from Article 2(2).

189. The lead examiners further note that Greece may have weakened its position by amending Law 2656/1998 to include confiscation of proceeds of bribery. Article 76(1) also covers confiscation of proceeds. Greek courts may therefore take the legislature's decision to add confiscation of proceeds to Law 2656/1998 as an admission that Article 76(1) does not apply to the foreign bribery offence.

Commentary

The lead examiners recommend that Greece amend Law 2656/1998 to expressly allow for the confiscation of "other undue advantages".

2. Sanctions against Legal Persons

190. Law 2656/1998 imposes an administrative fine of up to three times the value of the "benefit" against legal persons who are responsible for foreign bribery. The Law does not define how "benefit" is determined, nor have the Greek authorities issued guidelines for this purpose. During the on-site visit, the Greek authorities stated that a court will likely equate "benefit" with the value of the contract obtained by the briber. The SDOE added that a similar provision exists for fraud. In a recent case in which a legal person fraudulently obtained state aid for investment, the Greek authorities imposed an administrative fine based on the size of the subsidy and tax benefits that accrued to the legal person.

191. Law 2656/1998 also provides for temporary or permanent bans on engaging in business activities and entitlement to public benefits or aid (Article 5). The Law does not provide for confiscation of property against a legal person, although Greece takes the view that such confiscation is available under Article 76 of the Penal Code (Response to Phase 2 Questionnaire, p. 18).

192. The lead examiners were initially concerned that this system of sanctions may not be effective, proportionate and dissuasive. There may be cases in which a fine cannot be imposed because no contract is involved. For instance, a legal person may bribe not to obtain a contract but to obtain tax relief, subsidies or a permit to conduct business. A bribe may also be offered but not accepted, thus resulting in no contract. Even if a contract is involved, the value of the contract may not be an equitable basis for determining the fine, e.g. where a foreign public official sells an asset to a briber at a discount in return for a bribe. At the on-site visit, the Greek authorities candidly admitted that there may be shortcomings in the current system.

193. The situation is worsened because the lead examiners doubt whether confiscation under Article 76 of the Penal Code is available in foreign bribery cases against legal persons (see the preceding section). Bans on engaging in commercial activities and receiving public subsidies may ameliorate these concerns to an extent. But in the absence of case law, it is not known whether Greek courts will readily impose such bans in practice.

194. After the on-site visit, the Greek authorities provided a different interpretation of the law. According to this view, the value of a contract will be one (but not the sole) determinant of "benefit". This interpretation, if adopted by the courts, would greatly alleviate the concerns of the lead examiners.

Commentary

The lead examiners recommend that Greece compile statistics on the sanctions imposed against legal persons. They also recommend that the Working Group monitor whether sanctions imposed against legal persons for foreign bribery are effective, proportionate and

dissuasive, in view of Article 5 of Law 2656/1998 which imposes an administrative fine of up to three times the value of the benefit.

3. Administrative Sanctions

195. In addition to criminal sanctions, the Convention contemplates civil and administrative sanctions for foreign bribery. These may include temporary or permanent exclusion from entitlement to public benefits (such as export credit support or official development assistance) and disqualification from participation in public procurement (Article 3(4) and Commentary 24, Convention) and privatisation.

(a) Officially Supported Export Credits

196. The Export Credit Insurance Organisation (ECIO) has yet to impose sanctions for bribery, though in theory it may do so. According to a recent OECD survey, the ECIO may deny support if it has “suspicions” or “sufficient evidence” that bribery is involved in a transaction, or if it is aware of a legal judgment for bribery against an applicant.⁵⁰ When asked what amounts to “suspicions” and “sufficient evidence” of bribery, ECIO officials stated that these concepts are “very fluid” and likely require the commencement of a preliminary investigation by law enforcement authorities.

197. The ECIO has the authority to audit companies to determine whether funds obtained from the agency has been used for a bribe. Yet, it is unclear whether and when the ECIO would exercise the power to audit. Indeed the agency has never done so.

198. The ECIO states that its clients have not reported being solicited for bribes by foreign public officials. Nevertheless, the ECIO has not inquired with its clients whether they have been solicited (*e.g.* through an anonymous questionnaire), although it believes that it would be a good idea to do so.

199. Although the ECIO may impose administrative sanctions against companies which engage in foreign bribery in theory, the lead examiners are concerned this may not occur in practice. The ECIO has provided no guidelines to its staff on what amounts to “suspicions” or “sufficient evidence” of bribery which would trigger sanctions. It also has provided no training to its staff on how to detect such “suspicions” or to gather “sufficient evidence”. It is not clear whether the ECIO has instructed its staff to check for outstanding investigations or convictions against a client before and after approving support.

⁵⁰ The ECIO has adopted the following practice. Prior to the approval of support, if ECIO suspects bribery is involved in the transaction, it will withhold support for the transaction and seek further clarification from the exporter. If ECIO has sufficient evidence of bribery, it is required to inform law enforcement authorities, and it will withhold support and deny access to official support for all business. Finally, if ECIO is aware of a legal judgment of bribery against the applicant, it will withhold support and deny access to official support for all business.

After the approval of support, if ECIO suspects bribery is involved in the transaction, no action is taken. If ECIO has sufficient evidence of bribery, ECIO is required to inform law enforcement authorities. Cover is invalidated and it will deny any claims for indemnification. If ECIO is aware of a legal judgment of bribery against the applicant, cover is invalidated and it will deny any claims for indemnification (OECD Working Party on Export Credits and Credit Guarantees (2004), *Responses to the 2002 Survey on Measures Taken to Combat Bribery in Officially Supported Export Credits – As of 14 May 2004*, OECD, Paris, TD/ECG(2004)9).

The lead examiners believe that it may be useful for the ECIO to provide its staff with a copy of the OECD Best Practices to Deter and Combat Bribery in Officially Supported Export Credits.⁵¹

200. The lead examiners are encouraged by the ECIO's policy to impose administrative sanctions against clients who engage in bribery. This policy could be made more effective if the ECIO considers providing guidelines to their staff on what evidence is necessary to trigger administrative sanctions. It could also be useful to train ECIO staff on how to gather such evidence. The ECIO may also consider instructing their staff to verify whether an applicant is being investigated for or has been convicted of bribery before and after benefits are provided.

(b) Official Development Assistance

201. As noted earlier, the International Development Co-operation Department within the Ministry of Foreign Affairs (commonly known as Hellenic Aid) is responsible for administering official development assistance. Greece has provided no information on what actions are taken, if any, when a party to a transaction funded by Hellenic Aid engages or has engaged in foreign bribery.

202. Hellenic Aid stated that "consular authorities and the technical services of the Ministry of Foreign Affairs [closely supervise the contracts that it funds]. An external audit is required in all cases and carefully implemented." Hellenic Aid has not provided information on whether it trains its officials in identifying transactions that may involve foreign bribery.

(c) Public Procurement

203. Public procurement in Greece is administered by several agencies. Contracts for supplies are handled by the Ministry of Development, contracts for services by the Ministry of Finance and Economy, and contracts for public works by the Ministry of Environmental Planning and Public Works.

204. All three Ministries state that individuals and companies with a history of bribery are banned from the procurement process. A participant in a tender is required to produce a certificate from the competent authority which demonstrates that he/she does not have a previous conviction for "an offence concerning his/her professional conduct" (Article 14(1)(c), Presidential Decree 370/1995). According to the Greek authorities, this includes convictions for bribery. If the applicant is a legal person, it must demonstrate that it has not been banned previously from the procurement process (but not whether it has a prior criminal conviction). However, Greece was not able to provide statistics on bans that have been imposed.

205. Greek officials added that if a contractor is convicted of bribery while a contract is in effect, the contract is rescinded under the Civil Code and the contractor is banned from participating in future procurements.

206. After the on-site visit, Greece added that Law 3263/2004 amended the tender procedure for private contracts with a view to further enhance the transparency of the system.

207. The lead examiners are concerned that some legal persons who have been convicted of foreign bribery may nevertheless be able to avoid these sanctions. A legal person who participates in public procurement is only required to demonstrate that it has not been banned previously. Thus, a legal person

⁵¹ Working Party on Export Credits and Credit Guarantees (14 October 2004), *Bribery and Official Supported Export Credits: Best Practices to Deter and Combat Bribery in Officially Supported Export Credits*, OECD (Paris), TD/ECG(2004)14.

who has been fined administratively under Law 2656/1998 for foreign bribery but not banned from the procurement process may escape detection. As well, in the absence of statistics on the sanctions that have been imposed, the lead examiners are unable to evaluate the effectiveness of the system.

(d) Privatisation

208. In Greece, an Inter-Ministerial Privatisation Committee (IPC) makes decisions on privatisation of government entities and assets. The IPC will ban a natural or legal person who has a prior conviction for bribery from participating in the privatisation process. The ban applies to an entire legal person (including subsidiaries) and privatisation of all entities. The onus is on a participant to demonstrate that he/she does not have such a prior conviction. Greece did not provide statistics on whether such sanctions have been previously imposed.

F. RECOMMENDATIONS OF THE WORKING GROUP AND FOLLOW-UP

209. Based its findings on Greece's implementation of the Convention and the Revised Recommendation, the Working Group (1) makes the following recommendations to Greece and (2) will follow up certain issues as cases emerge.

1. Recommendations

Recommendations concerning Detection and Prevention of Foreign Bribery

210. With respect to raising awareness of the Convention, the Revised Recommendation and Law 2656/1998, the Working Group recommends that:

- (a) Greece take measures to further raise the level of awareness of the foreign bribery offence among officials in government agencies that could play a role in detecting and reporting it, and undertake effective public awareness activities for the purpose of educating and advising the private sector on the offence (Revised Recommendation I);
- (b) Greece further raise awareness of these instruments within the public sector, particularly in the Ministries of Finance and Economy, Justice, and the Interior, Public Administration and Decentralisation, the Hellenic Capital Markets Commission, the Export Credit Insurance Organisation, Hellenic Aid and among tax officials (Revised Recommendation I);
- (c) Greece work proactively with the accounting, auditing and legal professions to establish training and awareness-raising activities about the foreign bribery offence in order to maximise the opportunities for prevention and deterrence within the business community (Revised Recommendation I);
- (d) the Export Credit Insurance Organisation, Hellenic Aid and the Hellenic Capital Markets Commission make greater efforts to promote these instruments and the consequences of engaging in bribery to their clients and prospective clients (Revised Recommendation I);
- (e) Greece issue guidance to foreign representations and embassy personnel concerning the steps that should be taken where non-frivolous allegations arise that a Greek company or individual has bribed or taken steps to bribe a foreign public official, including the reporting of such allegations to the competent authorities in Greece (Revised Recommendation I).

211. With respect to measures to disallow the tax deductibility of bribe payments to foreign public officials, the Working Group recommends that Greece consider introducing an express denial of deductibility in order to strengthen the mechanisms available for detecting and deterring the offence (Revised Recommendations IV).

212. With respect to prevention and detection of foreign bribery through accounting and auditing, the Working Group recommends that Greece devise guidelines on reporting foreign bribery and false accounting for accountants and auditors, and require external auditors to report indications of bribery to corporate monitoring bodies (such as the Hellenic Capital Markets Commission) as appropriate (Revised Recommendations V.B.iii and V.B.iv).

213. Concerning other measures to prevent and detect foreign bribery, the Working Group recommends that Greece undertake initiatives to (i) remind employees of their legal obligation to report crimes, and (ii) consider introducing specific measures to further protect employees who report suspicious facts involving bribery in order to encourage them to report such facts without fear of retribution (Convention, Article 5; Revised Recommendation I).

Recommendations Pertaining Investigation of Foreign Bribery

214. With respect to investigation of foreign bribery, the Working Group recommends that Greece:
- (a) establish procedures for co-ordination, sharing information and resolving conflicts of competence between the Internal Affairs Division of the Hellenic Police and the Special Investigations Service, and consider assigning the competence for investigating domestic and foreign bribery to a single law enforcement agency, and provide further training on the practical aspects of foreign bribery investigations to members of the relevant law enforcement agencies (Revised Recommendation I);
 - (b) ensure that the National School of Judicature continue its training programmes on foreign bribery for prosecutors and judges, including new recruits (Revised Recommendation I).

Recommendations Pertaining to Prosecution and Sanctioning of Foreign Bribery

215. With respect to the prosecution of foreign bribery, the Working Group recommends that Greece:
- (a) eliminate the requirement of a complaint from the government of the country in which the crime was committed before asserting nationality jurisdiction to prosecute foreign bribery (Convention Article 4(2));
 - (b) amend its legislation to exclude the application of Article 30(2) of the Code of Penal Procedure (which exempts “political offences” and “offences through which the international relations of the state may be disturbed” from prosecution) from foreign bribery cases (Convention Article 5 and Commentary 27);
 - (c) ensure delays in proceedings do not result in the expiry of limitation periods in foreign bribery cases (Convention Article 6);
 - (d) ensure that liability of legal persons for foreign bribery is effective, particularly regarding (i) the threshold for imposing liability, and (ii) the categories of persons whose acts may trigger the liability of a legal person (Convention Article 2).
216. With respect to sanctions for foreign bribery, the Working Group recommends that Greece ensure that the amount of an administrative fine against a legal person does not depend solely on the value of a contract obtained by the briber (Convention Article 3(2)).

2. Follow-up by the Working Group

217. The Working Group will follow up the issues below as cases and practice develop in Greece:
- (a) whether Law 2656/1998 covers the following situations (i) bribery of a foreign public official who uses his/her position in excess of his/her powers, and (ii) a briber who is the best-qualified bidder (Convention Article 1);
 - (b) the application of the defence of “effective regret” in Article 236 of the Penal Code in foreign bribery cases (Convention Article 1);
 - (c) whether the effective seat theory provides a sufficiently broad jurisdictional base for imposing liability against legal persons for foreign bribery (Convention Articles 2 and 4);

- (d) effectiveness of the system of concurrent proceedings against the principal offender and a legal person in Greece, and whether in practice proceedings against legal persons will be taken independently of proceedings against a principal offender, including whether conviction of the principal is a prerequisite (Convention Article 2);
- (e) sanctions imposed against natural persons (including confiscation) for foreign bribery based on statistics provided by Greece (Convention Article 3);
- (f) whether sanctions imposed against legal persons for foreign bribery are effective, proportionate and dissuasive, in view of Article 5 of Law 2656/1998 which imposes an administrative fine of up to three times the value of the benefit (Convention 3(2)).

ANNEX 1
List of Participants in the On-Site Visit

Lead Examiners from the Republic of Ireland

- Mr. Eugene Gallagher, Detective Superintendent, Garda Bureau of Fraud Investigation
- Mr. Henry Matthews, Professional Officer, Office of the Director of Public Prosecutions

Lead Examiners from Portugal

- Ms Susana Cortes, Legal Adviser, Bank of Portugal
- Mrs. Maria José Fernandes, Deputy Attorney, Ministry of Justice

The OECD Secretariat

- Mr. Patrick Moulette, Head, Anti-Corruption Division
- Mr. Silvio Bonfigli, Principal Administrator, Anti-Corruption Division
- Mrs. Catherine Yannaca-Small, Advisor on International Investment Law, Committee on International Investment and Multinational Enterprises
- Mr. William Loo, Administrator, Anti-Corruption Division

Ministries and Bodies of the Greek Government

- Ministry of Justice, including:
 - Department of Special Criminal Cases and International Judicial Co-operation in Criminal Cases
 - General Division of Legislative Co-ordination and of Special International Legal Relations
- Ministry of Economy & Finance, including:
 - Body for the Prosecution of Economic Crime (SDOE) in Athens and Central Macedonia
 - Accounting and Auditing Oversight Board (ELTE)
 - Department of International Organisations and Policies
 - Division of Data
 - General Division of Customs and Excise
 - General Division of Economic Inspection
 - General Division of Planning and Management
 - Special Secretariat of Privatisation
 - Tax Official, Division of International Economic Relations
 - Tax Department, Division of Inspection
- Ministry of Foreign Affairs, including the Department of International Development Co-operation
- Bank of Greece
- Committee of Article 7 of Law 2331/1995
- Court of Audit
- Export Credit Insurance Organisation (ECIO)
- General Inspector for Public Administration
- The Greek judiciary
- Hellenic Capital Market Commission (HCMC)
- Hellenic Parliament
- Ministry of Development, including:
 - Cadre of Civil Service, Management of Policy of Supplies
 - General Secretariat of Commerce
- Ministry of Environment, Planning and Public Projects
- Ministry of Public Order, including:
 - Hellenic Police Headquarters, Division of Public Security
 - Hellenic Police Headquarters, Division of Internal Affairs
 - Sub-Division of Internal Affairs in Thessaloniki

- Ministry of Interior, Public Administration and Decentralisation, including the Inspectors-Controllers Body for Public Administration
- National School of Judges
- The Ombudsman
- Police Academy
- Public Prosecutor's Office:
 - *Areios Pagos* in Athens - Inspection Department
 - Court of First Instance in Athens
 - Court of First Instance in Thessaloniki

Civil Society

- Athens Journalists Association
- Movement for the Citizens
- Network for Corporate Social Government
- Transparency International-Greece

Private Sector

- Academics and practitioners in criminal, constitutional, corporate and international law
- Associated Certified Public Accountants SOL S.A.
- Association of Business Consultants for Small and Medium Enterprises in Greece
- Association of Greek Criminal Lawyers
- Federation of Hellenic Industries (SEV)
- Athens Bar Association
- Athens Stock Exchange S.A.
- Bar Association of Thessaloniki
- Exporter Association of Northern Greece (SEVE)
- Federation of Industries of Northern Greece
- Greek General Confederation of Labour (GESEE)
- Greek Institute of Certified Public Accountants (SOEL)
- Hellenic Banking Association
- Hellenic Chamber of Commerce & Industry
- Hellenic Chamber of Shipping
- Hellenic Foreign Trade Board (HEPO)
- Hellenic Organisation of Small and Medium Enterprises and Handicraft (EOMMEX)
- Interbalkan and Black Sea Business Centre (DIPEK)
- Ombudsman for the Capital Market
- Panhellenic Exporters Association
- Union of Civil Servants (ADEDY)
- Alpha Bank
- Bank of Piraeus
- Ceres Hellenic Shipping
- Coca Cola Hellenic Bottling Co. S.A.
- DEH
- Delta Holding S.A.
- EFG Eurobank Ergasias SA
- Egnatia Bank
- Emporiki Bank
- Hellenic Petroleum S.A.
- Intracom S.A.
- Latsis Group
- Michaniki S.A.
- National Bank of Greece
- OTE
- Sarantopoulos S.A.
- Stelmar Tankers (Management) Ltd.
- Titan Group
- Tsakos Energy Navigation Ltd.
- Vodafone Panafone

ANNEX 2
Excerpts from Relevant Legislation
(Unofficial Translations Provided by the Greek Authorities)

Law 2656/1998

Article 1

The OECD Convention on combating bribery of foreign public officials in international business transactions, signed in Paris on 17 December 1997, is hereby ratified and enacted in accordance with the provisions of article 28, paragraph 1 of the Constitution. The authentic text of the Convention in English and its translation in Greek are as follows:

[...]

Article 2 - The Offence of Bribery of Foreign Public Officials

1. Any person who, in the exercise of international business activities and with the intent of obtaining or retaining an unfair business or other advantage of pecuniary or any other nature that is not due, offers, promises or gives directly or through third parties, a bribe or other advantages that are not due, to a foreign public official, within the meaning of the OECD convention that is ratified with the first article of the present law, for the official or a third party, in order that the official perform an act or omission related to his service or contrary to his duties, is punishable with imprisonment of at least one year.
2. The bribes that were given or their value, as well as the proceeds of the crime, which are stipulated in the previous paragraph, or their value, are appropriated.

Article 3 - Abetting or Concealment of Commission of Bribing of Foreign Public Officials

Any person who abets or, in order to conceal the commission of the act provided in article two:

1. Maintains off-the-books accounts.
2. Carries out off-the-books transactions or transactions inadequately identified in the books of his business.
3. Records nonexistent expenditures or incorrectly determines their subject-matter, or
4. Uses documents of false content,

is punishable with imprisonment of up to three years, provided that such act is not subject to heavier punishment in accordance with another provision of law.

Article 4 - Jurisdiction of SDOE

The carrying out of searches and preparatory investigations related to the punishable acts of the present law are submitted to the jurisdiction of the Body for the Prosecution of Economic Crime (SDOE).

Article 5 - Administrative Sanctions

If any legal entity or undertaking has benefited in any way from punishable acts of the present law by fault of its managers, one of the following administrative sanctions will be imposed thereon by decision of the director of the competent regional directorate of SDOE (article 5 of presidential decree 218/1996, Government Gazette issue A 168):

1. Administrative fine up to three times the value of the benefit, or
2. Temporary or definitive prohibition of exercise of its business activity, or
3. Temporary or definitive exclusion from public benefits or aid.

Article 6 - Laundering of Proceeds

1. Points xvii), xviii) and xix), added by virtue of paragraph 1 of article 6 of law 2515/1997 (Government Gazette issue A 154) in article 1 point (a) of law 2331/1995 (Government Gazette issue 173 A) are hereby enlisted as follows: xviii), xix), xx).
2. Following the abovementioned section xx) of law 2331/1995, section xxi) is added as follows: “xxi) The crime provided and punishable by the provisions of article 3 of the present law on combating bribery of foreign public officials in international business transactions.”

Article 7 - Competent Authority

For the purposes of articles 4 paragraph 3, 9 and 10 of the Convention, the Minister of Justice acts as the Competent Authority.

Article 8

The present law enters into force as of its publication in the Government Gazette; the Convention hereby ratified enters into force in accordance with the provisions of the conditions of article 15 thereof.

Constitution of Greece

Article 28(1)

The generally recognised rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.

Article 86

1. Only the Parliament is competent to press charges against those who are or were members of the Government or Deputy Ministers for criminal offences committed by them during discharging their duties, as stipulated by the law. The establishment of special ministerial offences is forbidden.
2. Pressing of charges, examination, preliminary examination, preliminary investigation against the persons and for the offences as mentioned in paragraph 1, shall not be carried out without the previous resolution by the Parliament in accordance with paragraph 3.

If, within the framework of another examination, preliminary examination, preliminary investigation or administrative investigation, evidence arises, which relates to persons or offences as stipulated by the previous paragraph, the same shall be promptly forwarded to the Parliament by the person who conducts the examination, preliminary examination or investigation.

3. A motion for the pressing of charges shall be filed by at least thirty members of the Parliament. The Parliament, by its resolution passed by the absolute majority of all its members, shall form a special parliamentary committee to conduct a preliminary investigation, otherwise the motion shall be rejected as obviously unfounded. The findings report of the committee mentioned in the previous subparagraph shall be brought before the Plenary Session of the Parliament, which shall decide whether to press charges or not. The relevant resolution shall be passed by the absolute majority of all the members of the Parliament.

ANNEX 3
Conventions and Treaties on Mutual Legal Assistance
and Extradition to Which Greece Is a Party

1. Mutual Legal Assistance

(a) Bilateral Treaties

Party	Law	Official Gazette	Party	Law	Official Gazette
Albania	L.2311/1995	119 A´	Lebanon	L.1099/1980	87A´
Australia	Not Ratified		Morocco	Not Ratified	
Bulgaria	L.841/78	228 A´	Romania	L.D.429/1974	178 A´
Canada	L.2746/1999	225 A´	Syria	L.1450/1984	87A´
China	L.2358/1995	239A´	Tunisia	L.2312/1994	120A´
Cyprus	L.1548/1985	95A´	U.S.A.	L.2804/2000	49 A´
Egypt	L.1769/1988	53A´	USSR	L.D.1242/1982	44A´
Georgia	L.2813/2000	68 A´	Yugoslavia	L.D. 4009/1959	238 A´

(b) European Convention on Judicial Assistance (L.D. 4218/1961)

State	Execution	Ratification	In Effect	State	Execution	Ratification	In Effect
Albania	19/5/1998	4/4/2000	3/2/2000	Latvia	30/10/1996	2/6/1997	31/8/1997
Andorra				Liechtenstein		28/10/1969	26/1/1970
Armenia	11/5/2001	25/1/2002	25/4/2002	Lithuania	9/11/1994	17/4/1997	16/7/1997
Austria	20/4/1959	2/10/1968	31/12/1968	Luxembourg	20/4/1959	18/11/1976	16/2/1977
Azerbaijan	7/11/2001			Malta	6/9/1993	3/3/1994	1/6/1994
Belgium	20/4/1959	13/8/1975	11/11/1975	Moldova	2/5/1996	4/2/1998	5/5/1998
Bulgaria	30/9/1993	17/6/1994	15/9/1994	Netherlands	21/1/1965	14/2/1969	15/5/1969
Croatia	7/5/1999	7/5/1999	5/8/1999	Norway	21/4/1961	14/3/1962	12/6/1962
Cyprus	27/3/1996	24/2/2000	24/5/2000	Poland	9/5/1994	19/3/1996	17/6/1996
Czech Republic	13/2/1992	15/4/1992	1/1/1993	Portugal	10/5/1979	27/9/1994	26/12/1994
Denmark	20/4/1959	13/9/1962	12/12/1962	Romania	30/6/1995	17/3/1999	15/6/1999
Estonia	4/11/1993	28/4/1997	27/7/1997	Russia	7/11/1996	10/12/1999	9/3/2000
Finland		29/1/1981	19/4/1981	San Marino	29/9/2000		
France	28/4/1961	23/5/1967	21/8/1967	Slovakia	13/2/1992	15/4/1992	1/1/1993
FYROM	28/7/1999	28/7/1999	26/10/1999	Slovenia	26/2/1999	19/7/2001	17/10/2001
Georgia	27/4/1999	13/10/1999	11/1/2000	Spain	24/7/1979	18/8/1982	16/11/1982
Germany	20/4/1959	2/10/1976	1/1/1977	Sweden	20/4/1959	1/2/1968	1/5/1968

State	Execution	Ratification	In Effect	State	Execution	Ratification	In Effect
Greece	20/4/1959	23/2/1962	12/6/1962	Switzerland	29/11/1965	20/12/1966	20/3/1967
Hungary	19/11/1991	13/7/1993	11/10/1993	Turkey	23/10/1959	24/6/1969	22/9/1969
Iceland	27/9/1982	20/6/1984	18/9/1984	Ukraine	29/5/1997	11/3/1998	9/6/1998
Ireland	15/10/1996	28/11/1996	26/2/1997	United Kingdom	21/6/1991	29/8/1991	27/11/1991
Israel		27/9/1967	26/12/1967	Yugoslavia		30/9/1992	29/12/2002
Italy	20/4/1959	23/8/1961	12/6/1962				

2. Extradition

(a) *Bilateral Treaties*

State	Law	State	Law
Australia	L.1928/91	Syria	L.1450/84
Canada	3008/2002	Tunisia	L.2312/1994
Egypt	L.1689/87	USA	L.5554/1932
Former UK Colonies (L.& L.D Africa, N.Zealand, Samoa Islands, India, Kenya, Fiji, Malawi)	L.D. 4031	USSR	L.1242/82
Georgia	2813/2000	Yugoslavia	L.D.4009/1959
Lebanon	L.1099/1980		

(b) *European Convention on Extradition (L. 4165/1961)*

State	Execution	Ratification	In Effect	State	Execution	Ratification	In Effect
Albania	19/5/1998	19/5/1998	17/8/1998	Latvia	30/10/1996	2/5/1997	31/7/1997
Andorra	11/5/2000	13/10/2000	11/1/2002	Liechtenstein		28/10/1969	26/1/1970
Armenia	11/5/2001	25/1/2002	25/4/2002	Lithuania	9/11/1994	20/6/1995	18/9/1995
Austria	13/12/1957	21/5/1969	19/8/1969	Luxembourg	13/12/1957	18/11/1976	16/2/1977
Azerbaijan	7/11/2001	28/6/2002	26/9/2002	Malta	19/3/1996	19/3/1996	17/6/1996
Belgium	13/12/1957	29/8/1997	27/11/1997	Moldova	2/5/1996	2/10/1997	31/12/1997
Bulgaria	30/9/1993	17/6/1994	14/9/1994	Netherlands	21/1/1965	14/2/1969	15/5/1969
Croatia		25/1/1995	25/4/1995	Norway	13/12/1957	19/1/1960	18/4/1960
Cyprus	18/9/1970	22/1/1971	22/4/1971	Poland	19/2/1993	15/6/1993	13/9/1993
Czech Rep.	13/12/1992	15/4/1992	1/1/1993	Portugal	27/4/1977	25/1/1990	25/4/1990
Denmark	13/12/1957	13/9/1962	12/12/1962	Romania	30/6/1995	10/9/1997	9/12/1997
Estonia	4/11/1993	28/4/1997	27/7/1997	Russia	7/11/1996	10/12/1999	9/3/2000
Finland		12/5/1971	10/8/1971	San Marino	29/9/2000		
France	13/12/1957	10/2/1986	11/5/1986	Slovakia	13/2/1992	15/4/1992	1/1/1993
FYROM	28/7/1999	28/7/1999	26/10/1999	Slovenia	31/3/1994	16/2/1995	17/5/1995
Georgia	22/3/2000			South Africa			

State	Execution	Ratification	In Effect	State	Execution	Ratification	In Effect
Germany	13/12/1957	2/10/1976	1/1/1977	Spain	24/7/1979	7/5/1982	5/8/1982
Greece	13/12/1957	29/5/1961	27/8/1961	Sweden	13/12/1957	22/1/1959	18/4/1960
Hungary	19/11/1991	13/7/1993	11/10/1993	Switzerland	29/1/1965	20/12/1966	20/3/1967
Iceland	27/9/1982	20/6/1984	19/9/1984	Turkey	13/12/1957	7/1/1960	18/4/1960
Ireland	2/5/1966	2/5/1966	31/7/1966	Ukraine	29/5/1997	11/3/1998	9/6/1998
Israel		27/9/1967	26/12/1967	United Kingdom	21/12/1990	13/2/1991	14/5/1991
Italy	13/12/1957	6/8/1963	4/11/1963	Yugoslavia		30/9/2002	29/12/2002