



GREECE: PHASE 2

FOLLOW-UP REPORT ON THE IMPLEMENTATION OF THE PHASE 2 RECOMMENDATIONS

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

This report was approved and adopted by the Working Group on Bribery in International Business Transactions on 12 September 2007.

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SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

a) Summary of findings

1. Since Phase 2, Greece has introduced an express denial of tax deductibility of bribes. Greece has also taken numerous initiatives to raise the level of awareness of the foreign bribery offences and of the OECD Convention either through public measures or private activities.

2. In particular, the Export Credit Insurance Organisation includes the foreign bribery offence in its presentations as a matter of course. The market authorities, including the Hellenic Capital Markets Commission and the Athens Exchange, have undertaken initiatives on corruption, including foreign bribery. Awareness initiatives have also been undertaken within the Ministries of Finance and Economy, Justice, and the Interior, Public Administration and Decentralisation, and among tax officials. The Hellenic Banks Association in conjunction with all major commercial banks have organised meetings and seminars on the detection of corrupt practices, including money laundering and foreign bribery. However, the Working Group notes that no concrete action has been undertaken by the Hellenic Aid to further raise awareness of the Convention and the foreign bribery offence for its staff.

3. The Public Prosecutor's Office at the Athens Court of First Instance has dedicated specialised personnel on corruption issues, thus facilitating their effective prosecution. Since 2004 the National School of Judicature includes in its curriculum for new recruits a course on financial crime and money laundering, which also covers questions of foreign bribery. From this coming year onwards, a new course is added on corruption of public officials, including foreign officials with particular reference to the Convention. The Athens Bar Association regularly conducts seminars on corruption and financial crime issues.

4. Training and awareness raising initiatives have been also taken within the Hellenic Police. However, no circulars or directives have been established for co-ordination, sharing information and resolving conflicts of competence between the Internal Affairs Division of the Hellenic Police and the YPEE.

5. With regard to the protection of whistleblowers, article 12 of Law 3560/2007 has extended the whistleblower protection provided for informants in cases of organised crime to all persons reporting and cooperating in the prosecution of a bribery offence, including the foreign bribery offence. No guidance has been issued to foreign representations and embassy personnel concerning the reporting of foreign bribery allegations to the competent authorities in Greece.

6. With regard to the accounting sector, the Accounting and Auditing Oversight Board (ELTE), the competent body for the oversight of the accounting and auditing profession, has issued a Circular addressed to all auditing firms and the Institute of Certified Public Accountants of Greece drawing their attention to the fact that it is their responsibility under the Greek and International Auditing Standards to perform their duties in such a manner so that any violations of the Convention, as reflected in Law 2656/1998, be detected and reported to the appropriate authorities. ELTE has since included information on the Convention and the application of Greek Accounting Standard 2250: 'Evaluation during audit' in their regular seminars.

7. The Ministry of Justice has adopted a series of measures for the acceleration of justice, both by means of streamlining the procedure and recruiting new personnel, as a result of which the time required for a case to run its course has been reduced. The remaining backlog of cases is currently dealt with in accelerated procedures whereas new cases are scheduled for hearing within a few months, as opposed to often more than a year in the past.

8. Article 9 of Law 3560/2007, ratifying the Council of Europe Criminal Law Convention on Corruption has repealed the requirement of a complaint from the government of the country in which the crime was committed before asserting nationality jurisdiction for foreign bribery offences.

9. The Working Group note that Greece has not yet amended 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. In this regard, Greece indicates that an amendment to exclude the application of article 30(2) of the CPC to foreign bribery offences has been recently proposed by the Greek Government.

10. Furthermore, since the evaluation of Greece under Phase 2, no guidance, circulars or any other initiatives have been established for the purpose of clarifying the threshold for imposing liability and the categories of persons whose acts may trigger the liability of a legal person. Similarly, Greece has not established guidelines, circulars nor has it undertaken any other initiative for the purpose of clarifying how the value of “benefit” is determined under Law 2656/1998 on liability of legal person.

11. Finally, as there has been no practice or case law, none of the issues identified for follow-up have been resolved. Thus, the WGB asks Greece to provide updates on all of these issues in one year.

b) Conclusions

12. Based on the findings of the Working Group with respect to Greece’s implementation of the Phase 2 Recommendations, the Working Group reached the overall conclusion that Recommendations 1(a), 1(c), 2, 3, 4, 5(b) and 6(a) have been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations 1(b), 1(d), 5(a) and 6(c) have been partially implemented. Recommendations 1(e), 6(b), 6(d) and 7 have not been implemented.

13. The Working Group on bribery invites the Greek authorities to report orally on the implementation of Recommendations 1(b), 1(d), 1(e), 5(a), 6(b), 6(c), 6(d) and 7 within one year, i.e. by 19 June 2008. The Working Group will also continue to monitor the follow-up issues that have been identified in the Report.

WRITTEN FOLLOW-UP TO PHASE 2 REPORT

Name of country: Greece

Date of approval of Phase 2 Report: 26 April 2005

Date of information: 31 May 2007

Part I. Recommendations for Action

Text of recommendation:

1. 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 D);

Actions taken as of the date of the follow-up report to implement this recommendation:

Corruption issues are at the forefront of the political and legal debate in Greece today. A major new statute, promulgated in implementation of the Council of Europe Criminal Law Convention on Corruption has streamlined the corruption provisions, creating the new offence of corruption in the private sector. In the built-up to the promulgation of Law 3560/2007 there was an extensive public debate on all aspects of corruption, including the foreign bribery offence, which has thus received unprecedented press coverage. As a result, chambers of commerce, accountants and auditors associations, the bar associations and private corporations have all acquired increased awareness of the offence as well as procedures for better prevention and detection. There has been a sharp increase in the demand for private-sector seminars on corruption and foreign bribery.

Extensive debate and press coverage was also devoted to the promulgation of the new Civil Service Code, with special emphasis on detecting and reporting corruption. The new Organisation of the Ministry of Foreign Affairs has also upgraded foreign trade and development aid offices, with particular emphasis on the prevention and handling of foreign bribery. The Export Credit Insurance Organisation includes the foreign bribery offence in its presentations as a matter of course. The market authorities, including the Hellenic Capital Markets Commission and the Athens Exchange, have undertaken initiatives on corruption, including foreign bribery. The Hellenic Banks Association in

conjunction with all major commercial banks is also organising with increased frequency meetings and seminars on the detection of corrupt practices, including money laundering and foreign bribery.

In this context, the Public Prosecutor's Office at the Athens Court of First Instance, which effectively covers the financial centre of the country, has dedicated specialised personnel on corruption issues, thus facilitating their effective prosecution. The Hellenic Police Academy has added specialised courses on the detection of foreign bribery offence as part of the formation and training of personnel transferred to financial crimes units and as a precondition for promotion to managerial positions.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

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

- (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);

Actions taken as of the date of the follow-up report to implement this recommendation:

The involvement of all Ministries in the evaluation process has already raised awareness of the Convention, which continued and expanded in the intervening period. The text of the Convention and the Revised Recommendation appears in their relevant websites in all cases. Regular training seminars have specifically focused on corruption issues, including the foreign bribery offence, especially in view of the adoption of new comprehensive legislation on corruption matters. Circulars and directives addressed to all relevant authorities have regularly referred to the foreign bribery offence and the Convention.

The Ministry of Finance and Economy (www.mnec.gr) has recently updated the money laundering legislation, incorporating into the Greek legal order Directive 2001/97/EC, Framework Decision 2001/500/JHA and the relevant FATF recommendations; the incorporation of Directive 2005/60/EC is expected within the year. Law 3424/2005 created a National Authority for the combating of money-laundering, thus upgrading the Greek FIU to a separate independent entity; Law 3472/2006 further elaborated on tax evasion offences considered as predicate offences. It is to be reminded that the foreign bribery offence constitutes a predicate offence for money laundering purposes by virtue of Law 3424/2005 amending the original money-laundering statute, Law 2331/1995. It was perhaps the first time that awareness of the foreign bribery offence was so prominent in the law-drafting process.

The Ministry of Justice (www.ministryofjustice.gr) has just completed the incorporation within the Greek legal order the 1999 Council of Europe Criminal Convention on Corruption and has already prepared a bill on the ratification of the UN Convention on Corruption. Law 3560/2007 also covers the foreign bribery offence and furthermore extends in article 9 the jurisdiction of Greek courts wherever in the world the offence took place, as will be further discussed below.

The Ministry of the Interior, Public Administration and Decentralisation (www.ypes.gr) has just completed its work on the promulgation of a new Civil Service Code. Law 3528/2007 reiterates the obligation of every public servant to report a criminal offence to the authorities under article 37 paragraph 2 of the Code of Criminal Procedure and further specifies in article 107 a full list of disciplinary offences, which also include the use of information obtained in the course of one's duties for private purposes and other more traditional bribery offences. Regular seminars, circulars, meetings and press events on the contents of the new Civil Service Code have included as a matter of course reference to the foreign bribery offence. The Convention and the foreign bribery offence in general have been particularly brought to the attention of the Public Administration Inspection-Auditing Corps (www.seedd.gr) and the Inspector-General of the Public Administration by means of circulars and a special mention in their website.

The Hellenic Capital Markets Commission (www.hcmc.gr) has posted the Convention and the Revised Recommendation on their website and has included discussion of the Convention in the curriculum of the regular in-house seminars.

The Export Credit Insurance Organisation (www.oaep.gr) has conducted a series of seminars on the foreign bribery offence. Communications sent to interested parties now regularly include reference to the foreign bribery offence.

The Hellenic Aid has been further reinforced by the new Code of Organisation of the Ministry of Foreign Affairs approved by Law 3566/2007. The Department is presently preparing a new set of Guidelines for development cooperation missions, including specific reference to the treatment of the foreign bribery offence.

The foreign bribery offence has become a regular feature in the weekly seminars for tax officials organised by the Ministry of Finance and the local tax authorities. The Convention as well as the OECD Bribery Awareness Handbook for Tax Examiners appear regularly in the curricula of such seminars and circulars. Specific guidelines for the detection of the foreign bribery offence have been issued by virtue of Circular no. 108646/2015/A0012/POL.1131/14-11-2006.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

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

- (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);

Actions taken as of the date of the follow-up report to implement this recommendation:

Already in January 2005, the Accounting and Auditing Oversight Board (ELTE), the competent body for the oversight of the accounting and auditing profession, issued a Circular addressed to all auditing firms and the Institute of Certified Public Accountants of Greece drawing their attention to the fact that it is their responsibility under the Greek and International Auditing Standards to perform their duties in such a manner so that any violations of the Convention, as reflected in Law 2656/1998, be detected and reported to the appropriate authorities. ELTE has since included information on the Convention and the application of Greek Accounting Standard 2250: 'Evaluation during audit' in their regular seminars.

The Athens Bar Association regularly conducts seminars on corruption and financial crime issues. Particular emphasis has been paid on the implementation of Law 3424/2005 on money-laundering, which also provides a mechanism through which attorneys are to report suspicious transactions. In the heated discussions for the elaboration and implementation of such a mechanism the foreign bribery offence was repeatedly brought to fore, thus significantly raising awareness of the offence.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

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

- (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);

Actions taken as of the date of the follow-up report to implement this recommendation:

The Export Credit Insurance Organisation has put on its website (www.ecio.gr/el/organization) information concerning the combating of bribery in international business, with the full text of the Convention, the Action Statement on Bribery and the OECD Guidelines for multinational corporations available for downloading. In the same webpage there is also information about the relevant modifications that have occurred in the General Terms and Conditions of the Policies as well as about the additional topics in the Application Forms. In the intervening period, the ECIO has continued its regular frequent presentations of its activities in the Chambers of Commerce of major Greek cities. Such presentations typically include a description of the main issues of the Convention and of the measures that ECIO has taken in order to deter bribery in international business.

The Ministry of Foreign Affairs, including Hellenic Aid, has been involved in a major discussion on the new Organisation of the service, which has just been approved by Law 3566/2007. The foreign bribery offence and its repercussions on the conclusion of development aid contracts were expressly included in the discussions. Although it was generally felt that the present system, which typically includes a forfeiture clause for corruption, adequately addresses the needs of the Convention, it was nevertheless decided that the new standard development aid contracts currently under elaboration would include an explicit reference in the Convention.

The Hellenic Capital Markets Commission is currently organising a major conference for judges, public prosecutors and members of the legal profession, which will also include an analysis of the Convention and Revised Recommendations.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

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

- (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).

Actions taken as of the date of the follow-up report to implement this recommendation:

Foreign representations and embassy personnel are also subject to the general obligation under article 37 paragraph 2 of the Code of Criminal Procedure and the new Civil Code to report to the competent authorities any suspected criminal offence. Moreover, under the new Organisation of the Ministry of Foreign Affairs the directorate of international financial affairs has been upgraded and transferred under the direct supervision of the Assistant Minister of Foreign Affairs: a full set of instructions as to the treatment of allegations of foreign bribery are currently being elaborated.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

2. 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).

Actions taken as of the date of the follow-up report to implement this recommendation:

Law 3522/2006 has added a new article 31 to the Income Tax Code (Law 2238/1994), which has as follows:

“Payments in cash or in kind are not considered deductible expenses from the company gross income when such payments constitute a criminal offence, even when payable abroad”.

The new provision applies for the financial year 2007 onwards. In Circular no. 1027178/10254/B0012/POL.1052/15-3-2007 it is further clarified that the new provision has been adopted in application of the OECD Convention.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

3. 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).

Actions taken as of the date of the follow-up report to implement this recommendation:

The Hellenic Capital Markets Commission in consultation with the Athens Stock Exchange is currently working on a circular in order to increase the awareness of the foreign bribery offence and the relevant reporting requirements for listed companies who conduct business abroad.

As already indicated above, the Accounting and Auditing Oversight Board (ELTE), the competent body for the oversight of the accounting and auditing profession, has already issued a Circular addressed to all auditing firms and the Institute of Certified Public Accountants of Greece drawing their attention to the fact that it is their responsibility under the Greek and International Auditing Standards to perform their duties in such a manner so that any violations of the Convention, as reflected in Law 2656/1998, be detected and reported to the appropriate authorities. ELTE has since included information on the Convention and the application of Greek Accounting Standard 2250: 'Evaluation during audit' in their regular seminars. It is to be noted that GAS 2250 provides for a step-by-step procedure of reporting any irregularity to the competent organs of the corporation and eventually to the competent authorities. In general, the auditor is obliged to plan his work adequately so that the likelihood of not detecting illegal acts, such as foreign bribery, is minimised. Furthermore, the auditor is obliged to report any and all illegal acts to the competent supervisory authorities. Obviously, an auditor is obliged to qualify his report, disclaim an opinion or give an adverse opinion, depending on the circumstances, in case a foreign bribery act is identified or the management of the audited company acts in such a way that the auditor is prevented for identifying such acts.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

4. 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).

Actions taken as of the date of the follow-up report to implement this recommendation:

Under Greek law, there is a general obligation to report a crime to the competent authorities (article 40 of the Code of Criminal Procedure). This obligation has been reiterated in article 12 of Law 3560/2007. Moreover, the same article 12 further extends the whistleblower protection provided for informants in cases of organised crime to all persons reporting and cooperating in the prosecution of a bribery offence, including the foreign bribery offence.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

5. 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);

Actions taken as of the date of the follow-up report to implement this recommendation:

The Internal Affairs Division of the Hellenic Police is primarily responsible for domestic corruption cases within the Police force and the public service in general. However, overall competence for all financial crimes remains with the Special Investigations Service, since they are the ones operating in the market and thus liable to encounter corruption, both foreign and domestic; indeed, their spear-point position has been further enhanced with the criminalisation of private corruption under Law 3560/2007.

The Special Investigations Service continues to organise weekly seminars on corruption issues, several of them dedicated to the detection of the foreign bribery offence. The Police Academy also conducts regular seminars on the matter as part of the formation and training of personnel transferred to financial crimes units and as a precondition for promotion to managerial positions, often inviting members of the Special Investigations Service to lecture on their experience. Special courses on financial crime, including the foreign bribery offence, are also included in the regular curriculum of the Police Academy at officer-entry level.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

5. With respect to investigation of foreign bribery, the Working Group recommends that Greece:
- (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).

Actions taken as of the date of the follow-up report to implement this recommendation:

Already since 2004 the National School of Judicature includes in its curriculum for new recruits a course on financial crime and money laundering, which also covers questions of foreign bribery. From this coming year onwards, a new course is added on corruption of public officials, including foreign officials with particular reference to the Convention.

Moreover, the foreign bribery offence is covered in two seminars, on 'Bribery of foreign public officials' and 'Transparency and corruption, with special emphasis on money laundering', which are regularly taught in the training sessions for serving judges and public prosecutors.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

6. 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));

Actions taken as of the date of the follow-up report to implement this recommendation:

Article 9 of Law 3560/2007, ratifying the Council of Europe Criminal Law Convention on Corruption, states:

“The offences stipulated herein are always prosecuted ex officio, wherever in the world they may have taken place”.

Moreover, a more streamlined provision on the prosecution of corruption offences is to be included in the revision of the Criminal Code currently under way; however, such revision will certainly take its time with a preliminary deadline set for the end of 2008.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

6. With respect to the prosecution of foreign bribery, the Working Group recommends that Greece:
 - (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);

Actions taken as of the date of the follow-up report to implement this recommendation:

Although Article 30(2) of the Code of Criminal Procedure is rarely used, the following amendment of the Code of Criminal Procedure has been proposed:

“The offence of passive bribery (article 235 of the Criminal Code), the offence of active bribery (article 236 of the Criminal Code) and the offence of bribery of a judge (article 237 of the Criminal Code) are always prosecuted ex officio, wherever in the world they may have taken place. Article 30(2) of the Code of Criminal Procedure does not apply in a such a case”.

It is generally considered more appropriate to include a more streamlined provision on the prosecution of corruption offences in the revision of the Code of Criminal Procedure currently under way; however, such revision will certainly take its time with a preliminary deadline set for the end of 2008.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

6. With respect to the prosecution of foreign bribery, the Working Group recommends that Greece:
- (c) ensure delays in proceedings do not result in the expiry of limitation periods in foreign bribery cases (Convention Article 6);

Actions taken as of the date of the follow-up report to implement this recommendation:

As there has been as yet no foreign bribery case brought before the courts, there has never been any case where the proper prosecution of the foreign bribery offence (or indeed of any other offence) has been prevented from the expiry of limitation periods. In the intervening period the Ministry of Justice has adopted a series of measures for the acceleration of justice, both by means of streamlining the procedure and recruiting new personnel, as a result of which the time required for a case to run its course has been dramatically reduced. The remaining backlog of cases is currently dealt with in accelerated procedures whereas new cases are scheduled for hearing within a few months, as opposed to often more than a year in the past. The issue remains one of top priority for the Ministry of Justice.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

6. With respect to the prosecution of foreign bribery, the Working Group recommends that Greece:
- (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).

Actions taken as of the date of the follow-up report to implement this recommendation:

Again as there has been as yet no foreign bribery case brought before the courts, the discussion remains somewhat theoretical. As a matter of law, the system for imposing liability on legal persons for foreign bribery remains effective and dissuasive. The Special Investigations Service continues to regularly inspect legal persons and frequently impose significant administrative sanctions upon them; indeed, in a recent case the European Court of Human Rights found such a financial penalty so steep as to amount to expropriation of property! (*Mamidakis v. Greece*, judgment of 11 January 2007, www.echr.coe.int).

It is to be reminded that Greece maintains a system of administrative liability for legal persons. The possibility of introducing a system of criminal liability for legal persons has been raised in the context of the on-going revision of the Criminal Code and the Code of Criminal Procedure but the discussion is still at its early stages.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation:

7. 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)).

Actions taken as of the date of the follow-up report to implement this recommendation:

Again as there has been as yet no foreign bribery case brought before the courts, the discussion remains somewhat theoretical. Suffice it to reiterate that Law 2656/1998 provides for an administrative fine of up to three times the value of the benefit legal persons liable for foreign bribery have accrued. The same provision is also to be found in article 10 of Law 3560/2007 on the ratification and implementation of the CoE Criminal Convention on Corruption. Although there is no statutory definition of what such 'benefit' means, the practice and relevant case-law in fraud cases indicates that the meaning of 'benefit' is so construed as to encompass all possible advantage to the offender, including tax benefits.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Part II. Issues for Follow-up by the Working Group

Text of issue for follow-up:

8. 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);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Unfortunately, there are no cases on foreign bribery as yet.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Greece:
 - (b) the application of the defence of “effective regret” in Article 236 of the Penal Code in foreign bribery cases (Convention Article 1);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Again, there have been no cases developed as yet where the defence could be applied.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Greece:
 - (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);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Again, there has been no cases developed as yet. Nevertheless, the effective seat theory is regularly used by the courts to establish their jurisdiction in cases involving legal persons. No particular problem is foreseen in this respect in a foreign bribery case.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Greece:
 - (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);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Again, there has been no foreign bribery cases developed as yet. Nevertheless, as liability of legal person continues to expand, e.g. in public contract cases, the effectiveness of the system of concurrent proceedings remains an issue of increased importance. It is also in this context that the aforementioned discussion on a possible introduction of criminal liability for legal persons has started.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Greece:
 - (e) sanctions imposed against natural persons (including confiscation) for foreign bribery based on statistics provided by Greece (Convention Article 3);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Again, there has been no foreign bribery cases developed as yet.

Text of issue for follow-up:

8. The Working Group will follow up the issues below as cases and practice develop in Greece:
 - (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)).

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Again, there has been no foreign bribery cases developed as yet.