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ANNEX 8

ANNEX

GREECE

to the

EU Anti-Corruption Report

GREECE

1. INTRODUCTION – MAIN FEATURES AND CONTEXT

Anti-corruption framework

Strategic approach. In late 2012, the European Commission Task Force and the Greek authorities agreed on a Road Map on Anti-Corruption as a basis for a comprehensive national strategy.[1] Building on this, the Greek authorities agreed in early 2013 on a national anti-corruption strategy including an action plan.[2] This filled a longstanding gap and marked an important step towards addressing the corruption challenges in the country and the need for adequate coordination of policies in this field. A national anti-corruption coordinator was appointed to oversee the implementation of the action plan.[3]

Legal framework. Greek criminal legislation covers all forms of corruption and trading in influence offences covered by the anti-corruption legal instruments of the Council of Europe. The scope of criminal law provisions concerning corruption offences covers all elected and appointed officials, and any other public officials. However, as pointed out by the Council of Europe's Group of States against Corruption (GRECO), this 'legal framework is excessively complex, scattered among the Penal Code, other domestic laws and the various laws ratifying international instruments' which cannot but affect its implementation. Moreover, the legislation providing for criminalisation of corruption-related offences appears to be inconsistent, notably concerning the provisions on active and passive bribery and on trading in influence.[4] The OECD has also called for further improvement of the rules on foreign bribery and the liability of legal persons.[5] Most of the anti-corruption measures taken so far, legislative or otherwise, have been piecemeal, indicating a need for a more coherent approach. In August 2013, GRECO published its interim second compliance report, in which it concluded that, three years after they were issued, only one of its 27 recommendations on incriminations and party funding had been implemented satisfactorily.[6] The government has prepared draft legislation with the aim of addressing the current deficiencies and ensuring a streamlining of existing criminal law provisions.[7] In the meantime, to address most immediate concerns, amendments to the criminal code were adopted in spring 2013 in order to increase the sanctions applicable to offences of active and passive bribery and bribery of a judge.[8]

Institutional framework. The institutional anti-corruption framework is also complex, consisting of the General Inspector of Public Administration,[9] specialised departmental inspection bodies or units within agencies and ministries, the Office of the Commissioner General of the State,[10] the Financial and Economic Crime Unit (SDOE), the offices of public prosecution specialising in corruption recently established in Athens and Thessaloniki, the Financial and Economic Crime Prosecutor's Office, the Independent Authority to Combat Money Laundering, the internal affairs unit of the Greek police, the Supreme Court of Audit and the Ombudsman. Insufficient inter-agency cooperation raised concerns as to the ability of

1 http://ec.europa.eu/commission_2010-2014/president/pdf/roadmap_en.pdf.
2 Hellenic National Action Plan against Corruption: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KyH_7RZiUPg%3D&tabid=64.
3 See for more details issues in focus, section on comprehensive strategic approach on corruption.
4 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)10_Greece_EN.pdf.
5 http://www.oecd.org/daf/anti-bribery/Greecephase3reportEN.pdf
6 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)13_Interim_Greece_EN.pdf .
7 The intention is to include all corruption offences in the criminal code.
8 Law No. 4139 of 2013.
9 Tasked with monitoring and coordinating the performance of public administration functions and inspection bodies/units.
10 Independent authority competent for the supervision of all state financial inspection bodies, and the General Inspector of Public Administration for cases relating to asset recovery on the basis of inexistent or inaccurate declarations of assets by public servants.

this framework to respond effectively to corruption challenges. In order to address these concerns, a national anti-corruption coordinator was appointed in mid-2013.[11]

Law enforcement and judiciary. The judiciary has recently taken steps to improve its track record on corruption. Recent high-level cases have demonstrated a move towards more effective handling of corruption cases by courts and enforcement of severe sentences. In addition to the general prosecutor's office, Greece has set up two specialised prosecution services relevant for the fight against corruption: the prosecution service in charge of economic crimes set up in 1997[12] and the prosecution service in charge of corruption offences (set up in 2011).[13] A further specialisation of prosecution services on corruption was put in place in the first half of 2013 with the setting-up of additional specialised offices of the public prosecutor against corruption tasked with supervising and coordinating investigations of corruption. Two such specialised prosecution offices were established in Athens and Thessaloniki, the jurisdictions with the highest number of complex corruption cases.[14]

Opinion polling

Perception surveys. In the 2013 Special Eurobarometer on Corruption[15] 99% of Greek respondents consider corruption to be a widespread problem in their country (EU average: 76%), while 63% believe that it affects their daily lives (EU average: 26%) and 80% that favouritism and corruption hamper business competition in Greece (EU average: 69%). 95% say that there is corruption at regional and local level (EU average: 77%). 93% consider that bribery and the use of connections are often the easiest way to obtain a public service (EU average: 73%). In most cases, these are the highest percentages in the EU.

Experience of corruption. 7% of the Greek respondents to the 2013 Eurobarometer survey admitted that over the past 12 months they were asked or expected to pay a bribe for services (EU average: 4%).

Business surveys. According to a Eurobarometer business survey,[16] 89% of Greek businesses (EU average: 73%) and 80% of the respondents from the general population (EU average: 69%)[17] believe that favouritism and corruption hamper business competition in Greece. 92% of companies consider that bribery and the use of connections is often the easiest way to obtain certain public services (EU average: 69%). 66% of business people (EU average: 43%) believe that corruption is a problem for their company when doing business in Greece and 67% consider patronage and nepotism an obstacle (EU average: 41%).

Background issues

Economic context. Petty corruption was estimated to have cost Greece EUR 554 million in 2011.[18] The General Inspector of Public Administration noted in 2011 that corruption is widespread in local government, environmental and urban planning, transport, public works and public health services.[19] Instituting effective anti-corruption policies, reforming the judiciary and the public administration, including public procurement, and implementing an

11 See also 'Issues in focus' section on comprehensive strategic approach on corruption.
12 Article 17A of Law 2523/1997.
13 Law 4022/2011.
14 Law No. 4139 of 2013.
15 2013 Special Eurobarometer 397.
16 2013 Flash Eurobarometer 374.
17 2013 Special Eurobarometer 397.
18 National Survey on Corruption in Greece, TI Greece, 2011. This study gives also information about amount of bribes, e.g. up to EUR 20 000 for fixing a financial records audit, between EUR 40 and 500 for obtaining a driver's licence or from EUR 200 to 8 000 for issuing a construction permit. (http://en.transparency.gr/Press.aspx?page=27&code=PressRelease&article=326).
19 General Inspector of Public Administration (2011) *Annual Report of the General Inspector of Public Administration for 2010*: http://www.gedd.gr/news.php?article=85.

anti-fraud strategy for EU co-funded projects are part of Greece's commitments under the Memorandum of Understanding on Economic and Financial Policies.[20] The European Commission Task Force providing technical assistance to Greece, in close cooperation with the relevant Commission services, is offering support in reforming these fields.[21] As part of the economic recovery plans, Greece has committed itself to a large-scale privatisation of government assets. Independent monitoring and strong anti-corruption safeguards are essential in this context to mitigate corruption-related risks.[22]

Private Sector. In the World Economic Forum's 2013-14 Global Competitiveness Index, Greece ranked 91st of 148 countries with low scores on favouritism in decisions by government officials and the diversion of public funds.[23] Greece transposed all provisions of Framework Decision 2003/568/JHA concerning the definition of active and passive corruption in the private sector, and those regarding penalties applicable to natural and legal persons and the liability of legal persons.[24] However, as far as practice is concerned, the OECD concluded that there are several areas in which Greece falls short of implementing the OECD Anti-Bribery Convention. In particular, it expressed concerns about Greece's limited ability to detect foreign bribery cases, pointing to the failure promptly to investigate a significant foreign bribery case and to provide timely information on anti-bribery efforts.[25]

Whistleblowing. Greece does not have dedicated legislation on the protection of whistleblowers in either the public or the private sector. The general labour law provisions against unfair dismissal and non-discriminatory treatment of employees are also applicable to whistleblowers. Both GRECO and the OECD have stressed that the current framework for the protection of whistleblowers in Greece is insufficient. The Ministry of Finance, the General Inspector of Public Administration and law enforcement bodies have put in place anonymous corruption reporting systems that have become increasingly popular in recent years. Also, civil society has implemented initiatives for reporting bribes or corrupt practices.[26] Moreover, several internationally active Greek companies have developed channels for whistleblowing as part of their general ethics and anti-bribery framework.[27] The Government is currently working on draft legislation on comprehensive arrangements for the protection of whistleblowers, as provided for in the national anti-corruption action plan.[28] Whistleblowing is also to be promoted as part of the overall reform of tax administration, as agreed under the Memorandum of Understanding on Economic and Financial Policies.[29]

Transparency of lobbying. Lobbying is not regulated in Greece. There is no specific obligation for the registration of lobbyists or the reporting of contacts between public officials and lobbyists.

Media. Greece scored low in the 2013 Freedom of the Press index of Freedom House, following a negative trend which places it in the category of countries where the press is assessed as 'partially free'.[30] Economic weakness and a selectively enforced regulatory framework rendered the Greek media particularly vulnerable to potential undue pressure.[31]

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20 http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf
21 http://ec.europa.eu/commission_2010-2014/president/taskforce-greece/index_en.htm .
22 http://ec.europa.eu/commission_2010-2014/president/pdf/roadmap_en.pdf .
23 http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf
24 COM(2011) 309 final, Second Implementation Report of FD 2003/568/JHA of 6 June 2011: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0309:FIN:EN:PDF.
25 http://www.oecd.org/daf/briberyininternationalbusiness/Greece%20Phase%203%20Report%20WEB.pdf
26 http://www.edosafakelaki.org/ or http://www.teleiakaipavla.gr/ .
27 http://www.oecd.org/daf/anti-bribery/Greecephase3reportEN.pdf, p.33.
28 Hellenic National Action Plan against Corruption: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KyH_7RZiUPg%3D&tabid=64.
29 http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf.
30 http://www.freedomhouse.org/report-types/freedom-press.
31 http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Greece.pdf

2. ISSUES IN FOCUS

Comprehensive strategic approach on corruption

Greece has started to take a more comprehensive approach to tackling corruption. As highlighted by GRECO, its legislation is still 'excessively complex'.[32] This is compounded by a low level of enforcement and the fact that a large number of institutions have at times overlapping competences in the framework of anti-corruption policies, while risk assessments do not appear to be common practice for identifying future targeted actions. The Financial and Economic Crime Unit reporting to the Ministry of Finance (SDOE) includes within its structure a seconded prosecutor with a view to ensuring closer cooperation between the two services. Special consideration needs to be given to the coordination of the recently established public prosecution offices specialising in corruption, SDOE and the regular prosecution services. In June 2013, the Government announced the merger of the General Inspector of Public Administration and the Body of Inspectors of Public Administration into a single authority to reduce the overlap between anti-corruption agencies.[33]

Good practice: transparency of decision-making in public administration and publication of concluded contracts

A law adopted in 2010 placed all public institutions under the obligation to publish their decisions online, including those relating to public procurement.[34] Since 1 October 2010, all public institutions, regulatory authorities and local governments have been obliged to upload their decisions on the internet through the Clarity Programme (diavgeia - διαύγεια).[35] The decisions of public entities cannot be implemented if they are not uploaded on the Clarity websites. Only those that contain sensitive personal data and/or information on national security are exempt. Each document is digitally signed and automatically assigned a unique number. If there is a discrepancy between the text published in the Government Gazette and that on Clarity websites, the latter prevails. Concluded public contracts are also published. There is no public information readily available on the monitoring of the implementation of public contracts, but such information can be accessed on the basis of the freedom of information legislation.

Apart from the challenges relating to institutional coordination, internal control mechanisms within the public administration appear to pose problems that affect the well-functioning of anti-corruption and integrity-related policies. The internal control mechanisms within the civil service have proven ineffective, causing considerable backlogs in the system. As of August 2012, 5 000 cases were reportedly still pending in the disciplinary councils of Greek ministries and public institutions (e.g. public hospitals, state universities, etc.)[36] Most civil servants charged with violating the civil service code were acquitted: in 2011, only 17 of the 157 civil servants whose cases were investigated by disciplinary councils were finally dismissed.[37] Data to mid-2013 show that until that date 91 Greek civil servants had been dismissed on disciplinary charges, while the cases of another 2 000 civil servants were still pending at the time.[38]

32 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)9_Greece_One_EN.pdf
33 The merger of the two institutions was formally regulated in June 2013 by the Ministry of Administrative Reform: http://www.opengov.gr/minreform/wp-content/uploads/downloads/2013/06/systash.pdf .
34 Law No. 3861 of 2010.
35 http://diavgeia.gov.gr/en .
36 Onishenko, C. (2012), Five thousand pending disciplinary decisions, He Kathimerini, 9/08/2012.
37 Idem.
38 Idem.

Amendments to the civil service code were adopted in 2012 to ensure speedier and more transparent disciplinary proceedings.[39] The amending law changed the composition of disciplinary councils, which previously consisted of three top civil servants and two trade unionists. The new councils include judges to ensure greater impartiality. In early 2013, provisions aimed at speeding up disciplinary procedures were adopted[40], with a commitment to prioritising the dismissals of civil servants subject to disciplinary decisions on grounds of corrupt practices or incompetence. The Minister for Administrative Reform and e-Governance also gave a commitment in mid-2013 to take related measures. As a result, 226 civil servants were dismissed on disciplinary grounds (including cases where criminal charges were brought) between July and September 2013.

In mid-2013, court proceedings commenced following allegations that civil servants in a state-owned social security agency had been involved in the embezzlement of welfare benefits in the period 2003-12. Moreover, a number of periodic checks on welfare benefits have been carried out at regional and local level in recent years by committees of doctors assessing the medical grounds on which welfare benefits were initially awarded to beneficiaries. Following one of these periodical regional checks, it was revealed that 66% of the inhabitants of a small island who had been receiving welfare benefits for blindness were in fact not suffering from blindness. A full country-wide re-evaluation of these welfare benefits is nearing completion.

The Commission issued reservations regarding 2007-13 EU funding in Greece, on the basis of suspicions of extortion by fund managers in the Ministry of Development in exchange for project approval. The Greek police made several arrests and an investigation into corruption allegations is ongoing at national level. The European Commission established an action plan for Greece to ensure that past and present expenditure is legal, regular and eligible. The Minister for Development replaced staff suspected of involvement in this case.[41] Following the satisfactory implementation of the action plan, the Commission lifted the reputational reserve in 2013.

To develop a more coherent approach against corruption, the Road Map on Anti-Corruption drawn up by the European Commission Task Force on Greece[42] in 2012 identified the following priorities: adopt an overall national anti-corruption strategy; reinforce coordination and exchange of information between institutions, including via the appointment of a national coordinator; and strengthen financial investigation and prosecution of corruption, particularly in high-risk sectors. Legislative measures aimed at more effective prevention and detection of corruption were also mentioned. The anti-corruption dimension is also present in plans to strengthen the fight against undeclared work and raise the effectiveness of the Labour Inspectorate, where the reform programme calls for reinforced anti-fraud and anti-corruption mechanisms.

Following the Road Map recommendations, in May 2013 the Government appointed, for a term of five years, a national anti-corruption coordinator who reports to the Prime Minister and Parliament. A law on the setting-up of a national coordination committee which covers all relevant public institutions and law enforcement bodies, as well as the Ombudsman and an advisory body (including civil society and international organisations) was adopted by Parliament in April 2013.[43]

Building on the main lines of the Road Map, the Greek authorities drafted a national anti-corruption strategy including an action plan agreed among the relevant Greek agencies and law

39 Law No. 4067 of March 2012.
40 So-called 'Omnibus Law' adopted in April 2013.
41 Around 100 civil servants.
42 http://ec.europa.eu/commission_2010-2014/president/pdf/roadmap_en.pdf.
43 Law No. 4152 of 2013.

enforcement bodies in January 2013.[44] Responsibility for coordinating the action plan lies with the national anti-corruption coordinator. The lack of clarity in the adoption procedure may raise some questions as to the sustainability of the government's and Parliament's commitment to the strategy.[45]

The action plan covers the period from 2013 to 2015 and provides for the development of risk assessment capabilities. Among its objectives are: efficient political leadership in the fight against corruption; responding to the increased public demand for accountability; intolerance of corrupt practices; efficient enforcement and increased compliance; accountability of public and private bodies. Roughly 70% of the measures foreseen, including the establishment of the specialised anti-corruption prosecution office and other legislative measures targeting criminal procedures, focus on enforcement. Prevention measures are less elaborated. The action plan does not include measurable indicators or benchmarks. There are no estimates of the resources needed for its implementation. Up to now, a great majority of measures provided for in the action plan have been initiated, while only a few have already been completed.

Financing of political parties

Greece's legislative and operational framework on financing political parties and electoral campaigns remains underdeveloped. Public perception indicates further concern in this area. The 2013 Special Eurobarometer on Corruption shows that 86% of Greeks (highest percentage in the EU) consider that there is insufficient transparency and supervision of party funding (EU average: 67%).[46] Moreover, the financing of political parties in Greece has been linked over time to various allegations of corruption or illegal funding. One such case concerned allegations of illegal payments from a foreign company to officials of two political parties which were in power in 1996-2004 and 2004-09, allegedly in exchange for securing public contracts. After the Greek state claimed that it had suffered damages in excess of EUR 2 million, a settlement was reached in 2012; the criminal proceedings are not yet closed.

Greek political parties can be financed from state budget, private donations and loans. In 2010, new legislation was adopted on the electoral expenses of coalitions and candidates and control thereof in the local and regional elections[47] providing for funding and expenditure caps, and obligations on coalitions and candidates for medium and large size municipalities to disclose their revenue and expenditure on a central public database managed by the Ministry of Home Affairs, Decentralisation and e-Governance.[48] Financial reports also have to be submitted to the Committee on Expenditure Control and Election Violations by a wide range of elected local officials within one month of the announcement of election results. An ad-hoc committee is established in each district, with the participation of judges, a member of the Council of State, the Commissioner of the Audit Council and the head of local SDOE office. Its task is to check the financial situation of the elected coalitions and candidates. Penalties ranging from financial up to custodial are provided for, depending on the seriousness of the breaches found.

A committee on expenditure control and election violations is set up within Parliament including MPs from all parties (the majority of the members) and three magistrates. The effectiveness of this committee is nevertheless yet to be proven.[49] Its in-depth analysis of the expenditure during the most recent parliamentary elections of 2012 is still pending. The

44 Hellenic National Action Plan against Corruption: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KyH_7RZiUPg%3D&tabid=64.
45 The Action Plan is not 'formally' adopted by Government, or Parliament, but agreed among a number of public institutions.
46 2013 Special Eurobarometer 397.
47 Law No. 3870 of 2010.
48 http://www.ekloges.ypes.gr/diafaneia/index.html.
49 Its functions were provided by Law 3023 of 2002.

Supreme Court of Audit does not have the necessary powers to check the substance of the financing of political parties and electoral campaigns.

In July 2012[50] and subsequently in August 2013,[51] GRECO noted that none of its 16 recommendations in this area had been implemented. The authorities reported that amendments had been prepared but not adopted due to the fragile economic and political situation. In 2013, GRECO noted that the reform of the legislation for electoral campaigns at local and regional level improved the level of transparency to a certain extent, but at the same time expressed its disappointment that progress in the preparation of the substantial legislative amendments required for the follow-up of its recommendations in this area remained slow.[52]

Unimplemented GRECO recommendations mainly concern the need to: reinforce guarantees for tracing donations; ensure that loans are not used to circumvent party financing regulations; reinforce records and the transparency of party accounts; ensure independent auditing of political parties; strengthen the independence, efficiency and transparency of the Control Committee tasked with the supervision of party and electoral campaign funding; enhance the monitoring of financial documents; and enhance the reporting and sanctioning mechanisms. The need for transparency in party funding is echoed in the Road Map of the Task Force on Greece and the anti-corruption action plan. The Government is currently working on draft legislation to improve the legal framework on party funding.

Prosecution of corruption

As highlighted by GRECO in 2012, the effective application of the law is hampered by delays in the prosecution and adjudication of corruption offences.[53] Among the potential reasons for ineffective application of the law are the absence of effective control mechanisms in the public administration and the slowness of the justice system. However, more recently, an increased number of high level investigations into allegations of corruption have been started. Also, the courts handed down dissuasive prison sentences in several high-level cases, including in the case of a former minister of defence convicted in the first instance on charges of bribery, embezzlement and money laundering in relation to defence contracts, and making false statements regarding his assets. In another case, the former mayor of a big town was sentenced in the first instance to life imprisonment on charges of embezzlement. Several other high-ranking municipal employees were sentenced in this case. This could be an indication of a move towards more determined prosecution and adjudication of corruption cases.

A positive aspect illustrated by the above cases is the dismissal or resignation of the politician facing charges when investigations start. There are however no ethical codes applicable to elected officials at central and local level. There is only one code of conduct for government officials. Such codes of conduct for elected officials, accompanied by regulatory provisions on sanctions applicable in cases of breaches of ethics rules would enhance integrity and accountability standards and would ensure a wider range of non-criminal sanctioning of unethical behaviour to the detriment of the public interest. It would also ensure more effective implementation of integrity rules through self-regulation, given the particularities of non-criminal sanctions applicable to elected officials as compared with other categories of public officials (appointed officials, civil servants, etc).

The 2012 annual report of the Department of Internal Affairs of the Police showed an increase in the number of criminal charges for corruption offences, following recent amendments. Moreover, anonymous reporting systems of alleged corruption crimes have been put in place

50 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)10_Greece_EN.pdf.
51 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)13_Interim_Greece_EN.pdf
52 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)13_Interim_Greece_EN.pdf.
53 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)10_Greece_EN.pdf.

within law enforcement bodies leading to a considerable increase in the reporting of alleged bribery of public officials (almost double the number in 2012 as compared with 2011).[54]

A 2012 study commissioned by the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) details a six-month investigation that uncovered a group of seven coastguards and 15–16 civilians involved in cigarette smuggling from Cyprus and Turkey into Greece in 2010.[55] A hierarchy within the criminal group was observed, with the lowest-level coastguards receiving EUR 500 per shipment and the highest-level officials - EUR 10 000. According to the study, the increase in cigarette smuggling in Greece and other countries along the EU's eastern border after 2009 may have led some financially indebted officers to turn to corruption. In spite of these patterns, the prosecution response was rather weak: in 2010, only seven prosecutions were reported, with four dismissals and one disciplinary penalty. Criminal investigations into allegations of high-level corruption face challenges as a result of a complex immunity regime, notably as regards ministers and former ministers.

According to the Greek Constitution, MPs can be prosecuted or arrested only with prior approval of Parliament.[56] If no decision is taken within three months, the approval is deemed not to have been granted. The decision does not have to give reasons. In the case of ministers, former ministers and state secretaries,[57] in addition to prosecution and arrest, the immunity also covers judicial inquiry, preliminary judicial inquiry or preliminary examination. Each stage of investigation requires a separate approval from Parliament. Only Parliament has the power to take legal action against the officials in question for criminal offences committed during the discharge of their duties. Also, only Parliament is entitled to suspend criminal prosecution. The Constitution provides for a complex and time-constrained procedure for submitting legal action in the case of offences committed by ministers, former ministers and state secretaries, which creates considerable obstacles to prosecution. The restrictions imposed by this procedure also add to the limitations of the prescription periods, preventing criminal action against the persons mentioned above unless and until Parliament gives its consent.

In addition, ministers and former ministers also benefit from an extensive statute of limitations regime which – in combination with lengthy proceedings – poses significant problems for prosecuting corruption in Greece.[58] The prescription term continues to run after the first instance court decisions are rendered; the term can be suspended, but not interrupted.[59] Moreover, an absolute prescription term runs irrespective of the course of proceedings. Furthermore, the Minister of Justice can postpone or suspend prosecution of 'political acts' and of 'offences through which international relations of the state may be disturbed'.[60] To date, however, this provision has not been used for corruption offences.

GRECO has repeatedly called for the abolition of the special statute of limitations for ministers and former ministers. In its 2012 compliance report, the Greek authorities are quoted as stating that this would require a constitutional amendment, and be unfeasible in the short term.[61] In practice, the current provisions have been interpreted in a broadly by the prosecution services and the courts to allow more effective criminal proceedings in some complex cases.

54 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)13_Interim_Greece_EN.pdf .
55 http://www.frontex.europa.eu/assets/Publications/Research/Study_on_anticorruption_measures_in_EU_border_control.pdf .
56 Article 62 of the Greek Constitution.
57 Article 86 of the Greek Constitution.
58 http://en.transparency.gr/Content.aspx?page=63 .
59 This means that the maximum time period for obtaining a judgment does not recommence.
60 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)9_Greece_One_EN.pdf.
61 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)10_Greece_EN.pdf

Conflicts of interest and asset disclosure

The Greek Constitution sets out specific rules on incompatibilities between the mandate of the MPs and a wide range of positions in the private and public sector including executive functions in local government.

Conflict of interest was recognised by the Greek Government as an issue to be addressed in the context of the reform of public administration. As part of its commitments under the Memorandum of Understanding of Economic and Financial Policies, the Ministry of Finance adopted a code of conduct concerning the conflict of interests and declaration of interests for its own staff, including the tax administration.[62] A code of conduct, including provisions on conflict of interests and asset declarations was also recently introduced within the revenue administration.

Against this background, the national anti-corruption action plan aims to develop effective mechanisms for the prevention, detection and removal of conflicts of interest and incompatibilities for all categories of public officials, including elected officials, through the implementation of an action plan in all general government bodies at all levels (including elected officials). Moreover, the action plan provides for the setting-up of a system for reporting conflicts of interests within the public administration.[63]

Elected and appointed officials are subject to a strict asset disclosure system which has led to criminal prosecution in some cases (see example in the previous section). The declarations of ministers and MPs are publicly available and usually reported in the media. However, verification is not systematic and the cooperation between internal control mechanisms and law enforcement bodies to identify breaches of asset disclosure obligations has shown limited results. Moreover, in the case of MPs, any verification of asset declarations is carried out by the Control Committee within Parliament, which is composed predominantly of MPs and three representatives of the judiciary. Therefore, this verification system alone cannot fully guarantee impartiality.

Public procurement

The share of public procurement in the Greek economy has decreased recently as a result of the economic crisis. Public works, goods and services in Greece accounted for about 8.8% of GDP in 2011.[64] The value of calls for tender published in the Official Journal as a percentage of total expenditure on public works, goods and services was 25.4% in 2011.

According to the 2013 Eurobarometer business survey on corruption, 76% of the Greek respondents believe that corruption is widespread in public procurement managed by national authorities (EU average: 56%) and 94% in that of local authorities (EU average: 60%). In particular, respondents stated that the following practices are widespread in public procurement: specifications tailor-made for particular companies (81%); conflicts of interests in the evaluation of bids (87%); involvement of bidders in the design of the specifications (81%); abuse of negotiated procedures (75%); collusive bidding (73%); unclear selection or evaluation criteria (73%); abuse of emergency grounds to avoid competitive procedures (72%); and amendments of contractual terms after conclusion of contract (55%). These are among the highest percentages in the EU. These indicators, while not necessarily directly related to corruption, illustrate risk factors that increase vulnerabilities to corruption in public procurement procedures. Greek public procurement law has in general been characterised by complexity, overlapping rules, and a fragmentary approach. These deficiencies have increased

62 http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf.
63 P. 54, http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KyH_7RZiUPg%3D&tabid=64.
64 http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf.

the risks of ineffective implementation. Despite several legislative initiatives,[65] such shortcomings have not been fully addressed, especially in relation to fragmented oversight, the need to further strengthen internal and external controls and the need to increase the level of enforcement.[66] Moreover, there is no indication of how potential conflicts of interests are being systematically checked in public procurement procedures, notably at local level.

In light of the above, the Greek government has recently undertaken several significant initiatives, some of which stem from its commitments laid down in the Memorandum of Understanding for the economic recovery programme concluded with the European Commission, the European Central Bank and the International Monetary Fund.[67] Such initiatives include: (a) preparing legislative reform aimed at codifying and consolidating Greek public procurement rules; (b) enhancing transparency and consistency in the Greek public procurement system by strengthening the role of the Single Public Procurement Authority (SPPA–EAADISY); (c) using central purchasing and reducing the number of contracting authorities; and (d) introducing e-procurement as a key tool for (almost) all public procurement procedures initiated by the contracting authorities.

In September 2012, the Government completed the regulatory framework of the SPPA – EAADISY, the body set up in 2011 to review the legality of all contracts signed by public institutions, including by ministries and agencies under the negotiated procedure without publication of a contract notice.[68] The SPPA–EAADISY became operational in this new framework on 1 July 2013.

The SPPA – EAADISY has been tasked with submitting a comprehensive plan for the reform of the legislation on public procurement in the first quarter of 2014.[69] The legislative reform underway includes, *inter alia*, the establishment of a new e-procurement platform and enhanced corruption prevention mechanisms.[70] E-procurement platforms have already been established both for information and for tendering purposes and steps are being taken to further improve their effectiveness.

In order to enhance the transparency of the public procurement process, Greece has established the Central Electronic Registry of Public Contract (KHDMS). The Registry is hosted on the portal of the national system of electronic public contracts and is managed by the General Secretariat of Commerce within the Ministry of Development. Since March 2013, all transactions regarding public tenders, public contracts and payments over a value of EUR 1 000 by any ministry or public agency must be registered and processed through KHDMS. This initiative is also expected to increase accountability and equal opportunities for interested bidders. Further efforts are being made with a view to reducing the number of contracting authorities and using central purchasing (in the field of supplies and healthcare).

In February 2013, the Hellenic Competition Commission conducted a 'dawn-raid' investigation into the largest construction companies for possible bid-rigging for the award of public works contracts (large infrastructure projects) in 2012. This also signalled a stricter approach by the Greek authorities to investigating potential anti-competitive conduct and potential corruption in the public sector.

A national strategy is currently being developed in the field of public procurement with the support of the Commission and its Task Force for Greece. In this context, the main efforts

65 Public Procurement GREECE Zepos & Yannopoulos, Lex Mundi Ltd.

66 http://www.transparency.org/whatwedo/pub/2012_regional_policy_paper_1_increasing_integrity_and_eu_citizens_trust_in)

67 http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf.

68 Law 4013 of 2011.

69 A first draft of this comprehensive legislative framework was presented to the Commission in October 2013.

70 COMMISSION STAFF WORKING DOCUMENT Assessment of the 2013 national reform programme for GREECE, European Semester, May 2013 :http://ec.europa.eu/europe2020/pdf/nd/swd2013_greece_en.pdf.

relating to procurement policy in Greece are focused on optimising economic outcomes in full compliance with EU rules, including strengthened anti-corruption measures, achieving best value for money and enhancing transparency.

Healthcare

The healthcare sector is among the sectors in which Greece faces considerable challenges with regard to corruption. It accounts for 10% of GDP. Both informal payments and the procurement of equipment and drugs are affected by corruption.

In the 2013 Special Eurobarometer, 11% of the Greek respondents who visited public medical facilities in the past year admitted to having made an extra payment (EU average: 5%) and of these 24% felt they had to make the extra payment or offer a gift before care was given.[71] Transparency International's 2011 survey on petty bribes in Greece estimated the bribe expected for surgery in public hospitals at EUR 100 to 30 000, for faster treatment from EUR 30 to 20 000, and for medical tests from EUR 30 to 500.[72] Informal payments appear to be made most frequently to obtain access to healthcare, bypass waiting lists or secure treatment by a particular specialist.[73]

In addition to such petty corruption, the healthcare system was affected by a number of large-scale cases of corruption and fraud. One such case involved the construction of a facility for the analysis of blood plasma, costing some EUR 11.2 million in public funds. Construction began in 2000 and finished in 2001, but the facility never functioned fully. As a result, Greece still has to send large quantities of plasma for analysis abroad. Another case relates to bribes of GBP 4.5 million paid to Greek healthcare professionals in 1999-2006, for favouring the purchase of medical equipment by a subsidiary of a UK-based company. The marketing director of the company was sentenced in the first instance to one year imprisonment by a British court.[74] These cases point to substantial vulnerabilities to corruption in the healthcare sector relating to the certification and procurement of medical equipment, and the authorisation and procurement of pharmaceuticals.

Economic adjustment conditions specifically mention the implementation of mechanisms that address corruption and eliminate informal payments in hospitals.[75] Further measures taken include the setting-up of a health supplies price watch, the introduction of electronic prescriptions and the centralisation of healthcare procurement.

The extent of corruption in the healthcare system calls for a targeted strategy to address the specific challenges in this sector. The Greek authorities, supported by the Commission's Task Force, are close to finalising such a strategy.

Tax administration

Corrupt practices that facilitate tax evasion incur considerable costs for the Greek state. Recent studies on the development of the shadow economy estimated that these reached levels as high as 24.3% of GDP in 2012.[76] A former head of investigations of the anti-fraud squad (SDOE) stated in 2011 that Greece is able to collect only 20% of fines imposed for tax evasion. Another 40% is commonly written off and the remaining 40% is allegedly retained by the tax official in charge of the procedure. According to the same estimates, in cases of tax refunds, 10% of the sum is similarly embezzled by corrupt officials.

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71 2013 Special Eurobarometer 397.
72 http://en.transparency.gr/Press.aspx?page=27&code=PressRelease&article=326.
73 http://en.transparency.gr/Press.aspx?page=27&code=PressRelease&article=32.
74 http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/british-executive-jailed-for-part-in-greek-healthcare-corruption.aspx.
75 http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf.
76 http://ec.europa.eu/europe2020/pdf/themes/06_shadow_economy.pdf.

Large-scale tax evasion allegations have attracted considerable controversy in Greece. One such case concerned a list with approximately 2 000 Greek nationals (including businessmen and relatives or associates of politicians) with Swiss bank accounts who allegedly evaded taxes. The French authorities handed the list to their Greek counterparts in 2010. Investigations were opened only recently, along with a parliamentary inquiry into the failure of two successive ministers of finance to act. A parliamentary inquiry was carried out into allegations that a former minister of finance hid the names of two of his relatives from the list. Investigations are ongoing. SDOE is currently investigating the assets of 54 former and current politicians.

Given the above-mentioned challenges, the reform of revenue administration, as well as the fight against tax evasion and corruption were key elements in the reform programme accompanying the economic adjustment programmes for Greece.[77] The Commission recommended establishing procedures for the periodic rotation of managers, improving the system for the protection of whistleblowers who report corruption, setting targets for audits of asset declarations of tax officials and preparing a fully-fledged anti-corruption action plan for the tax administration.

A comprehensive strategy to address corrupt practices within the tax administration was adopted in the first half of 2013, with the support of the Commission's Task Force, and implementation is ongoing. The setting up of the specialised prosecutor's office and police to investigate economic and financial crimes, with access to banking and tax data, represented another step in the right direction for addressing more effectively tax evasion and corruption as a facilitator of such practices. Other specific measures on which progress has been achieved include the creation of specialised units to deal with wealthy individuals and big taxpayers; new techniques based on risk assessment and enhanced use of third party information, and the deployment of new IT tools in all tax offices. It is envisaged that cash payments in tax offices will be completely abolished. Overall efforts against tax evasion, money laundering and corruption have therefore been reinforced but more efforts are called for to ensure a fully adequate response to the existing challenges.[78]

3. FUTURE STEPS

The key institutions in preventing and tackling corruption are facing the same resource pressure as felt by the whole of the public administration in Greece and therefore, in the context of the state reform which is currently being introduced, particular attention should be given to the anti-corruption work.

Steps have been taken towards a comprehensive strategic anti-corruption approach, including through the appointment of a national anti-corruption coordinator. Sectoral strategies have been or are being developed in a number of vulnerable areas. Nevertheless, the anti-corruption framework remains complex and has not yet yielded sustainable results. Some progress has been made in the prosecution of high-level corruption cases, with a few recent court sentences showing some determination to take a more deterrent stance. Internal control mechanisms must be further reinforced, while clientelism and favouritism in public administration require a more vigorous response. Issues remain regarding conflicts of interest and asset disclosure concerning politicians, and effective implementation of anti-corruption safeguards in public procurement. The determination of the political leadership to do away with corruption can be measured only through the implementation and impact of policies that are currently being established.

77 The Second Economic Adjustment Programme for Greece, European Commission March 2012.
78 The Second Economic Adjustment Programme for Greece, European Commission, Second Review, May 2013.

The following points require further attention:

- Ensuring sufficient powers and support to enable the national **anti-corruption coordinator** to implement anti-corruption policies. Distributing clearly the anti-corruption tasks within the institutional framework. Ensuring timely implementation of the national anti-corruption **action plan**. Consider carrying out an independent functional review of the anti-corruption framework, along the lines of the national anti-corruption action plan, to identify possible needs for further simplification. Ensuring effective implementation of sector-specific strategies such as **healthcare** and **tax administration**.

- Strengthening the supervision of **party funding** and the independence, efficiency and transparency of the Control Committee. Reinforcing the mechanisms for tracing donations and loans to political parties. Consider enhancing the powers and ensuring adequate capacity of the Supreme Court of Audit to carry out effective verification of party funding.

- Establishing comprehensive ethical codes for elected officials at central and local levels and corresponding accountability tools for potential violations of these codes, to include in case of corrupt practices or conflict of interests. Consider promoting similar codes for political parties and/or concluding ethics pacts among parties. Ensuring a professional independent verification mechanism for asset declarations of **high-level elected and appointed officials** at central and local levels and strengthening the cooperation between internal control mechanisms and law enforcement bodies to enhance notification rates for corruption offences or unjustified wealth. Eliminating potential obstacles to the investigation of corruption offences by reducing the extent to which **immunity** protects high-ranking officials from investigations, taking steps to simplify the procedure for lifting immunities and reforming the **statute of limitations** rules concerning current and former members of the Government while also considering expanding the scope of suspension and interruption of the prescription period, in particular during court proceedings.

- Ensuring effective implementation of the anti-corruption measures of the strategy on reform of the public procurement system which is currently being finalised, including with regard to the codification and consolidation of legislation. Enhancing the oversight of **public procurement** at central and local levels to detect corruption, fraud and conflicts of interests, including by ensuring that the Single Public Procurement Authority (SPPA–EAADISY) has the necessary capacity, powers and operational independence to perform its tasks effectively.