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NOTE

from:	Greek delegation
to:	Delegations
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Subject:	Evaluation report on the fifth round of Mutual Evaluations "Financial crime and financial investigations"
	- Follow-up to Report on Greece

Extract of pages 76-78, doc. 7614/1/12/REV2/ GENVAL 14/24.5.2012

6. RECOMMENDATIONS

6.1. Recommendations to Greece

Given the present legal and organizational set-up, while taking into account the specificities of the Greek governmental and administrative services, the evaluation team came to the conclusion that cooperation between the different players works sufficiently well in general terms. All practitioners met seemed to be highly motivated and dedicated to their duties.

Nevertheless the evaluation team thought fit to make a number of suggestions for the attention of the Greek authorities, and the experts would like to summarise their suggestions in the form of the following recommendations:

1. **Should continue to quickly implement any steps that have been taken in order to improve the system of countering financial and economic crime, e.g. the setting up of the Economic Police (EPS) or the Public Prosecutor for Financial Crime; (cf.2.3.1.)**¹

Reply:

Regarding the recommendation (1) we would like to update the information initially given as follows:

A) The Financial and Economic Police (FP) (Presidential Decree 9/21.2.2011)

In general the financial police is responsible for the prevention, investigation and eradication of financial crimes and mostly of those conducted against the interests of the State and national economy and those bearing organized crime characteristics. The FEP is also responsible for the prevention, investigation and eradication of crimes or anti-social behavior committed through the internet and other means of electronic communication. In more detail this means:

1. *Investigation and prosecution of financial crimes committed by natural or legal entities which cause damage or threaten the Greek public interest or the broader public sector concerning :*
 - a) *The misuse of public property by any means.*
 - b) *The encroachment by every means of exchangeable and public landed properties, lands, forestall lands, state installations and other real estates.*
 - c) *The opaque, illegal and out of the by law established procedures management of European Union's funds and state financing and backing.*

¹ The evaluation team has noted the substantial progress that has been made on this recommendation. However, depicting the situation at the time of the visit while at the same time highlighting the efforts invested by Greece they have opted to leave it as it stands.

- d)** *The intended destruction or damage of movable or landed property, means, material and installations of organizations of local government and public companies and agencies as well as businesses, institutes, legal entities, unions and associations, in which the Government participates or are granted by the State and the European Union, provided that the damage is significant or the total effects of the action causes serious disorder in the socio-economic life of Greece.*
- e)** *Every illegal act that threatens the public interest and the national economy in general.*

2. *Investigation and prosecution of crimes, which causes adverse impacts to the public revenue and influence significantly the smooth operation of the market and mainly*

- a)** *The illegal money laundering, by every means.*
- b)** *The illegal transportation and adulteration of goods and other products.*
- c)** *Any illegal transactions or activities relating to the operation of credit or financial institutions as defined in article 2 of L. 3601/2007, of the financial institutions and groups, as defined in the article 4 of L. 3691/2008 and of the financial sector in general.*
- d)** *The illicit transfer of capitals and money transfer, by every means.*
- e)** *The infringement of regulations of free competition and market especially concerned practices, regarding the prices of products.*
- f)** *The infringements committed in the framework of the operation of businesses, organizations, agencies or other bodies of gambling and casino.*
- g)** *Every other economic breach as defined in criminal law, by the commitment of which are harmed the public revenues and are provoked important serious impediments in the market.*

3. Prosecution of crimes concerning to the tax and customs legislation especially:

- a)** *The withholding or intended malfunctioning of tax material or other data aiming at avoiding the tax audits or the reduction of taxes and fees paid as defined in tax provisions in force .*
- b)** *The illegal importation and exportation of goods and other products.*
- c)** *The non issuance of the of receipts, invoices and vouchers during the sale and transportation of products or the offer of services per case.*

4. Investigation and prosecution of offences against the social security institutions, welfare and medical care of the citizens and namely with:

- a)** *The nonpayment of social insurance contributions as defined by provisions by natural or legal entities, companies, organizations and generally by every liable to this.*
- b)** *The illegal prescriptions.*
- c)** *The false medical reports and certifications which cause financial expenses against the insurance institutions and the public, in general.*
- d)** *The non issuance of receipts of medical or nursery services.*
- e)** *The overpricing of medicines, medical equipment, devices and materials.*
- f)** *The use of fictitious, forged or fake data, supporting documents and opinions for the supply of medical services in non beneficiary persons*
- g)** *The use of falsified or fictitious supporting documents or any other data, in order to provide or receive benefits by any authority or organization of insurance and social protection.*
- h)** *Any other violation, resulting in financial damage to the detriment of organizations, bodies, funds and services of social insurance and welfare, as well as nursing institutions, services and medical care bodies.*

B) The Financial Crime Prosecutor (FPP)-(art 2, L. 3943/2011)

The Financial Crime Prosecutor's (FPP) service was established in accordance with article 2 of Law 3943/2011 which introduced article 17A' to Law 2523/1997. The duties of the FPP include:

“... the supervision, guidance and coordination of the activities of the general, according to article 33 paragraph 1a of the Code of Criminal Procedure, and the special preliminary investigating officers, and especially of the Officials of the Financial Crimes Enforcement Unit (SDOE), of the Customs Offices, of the Customs Auditing Department (ELYT) and of the tax audit agencies, in general, of the Ministry of Finance, during the carrying out of the probes, the preliminary examination or the preliminary investigation for the purpose of verifying the commission of any kind of tax and economic crimes and any other similar offences, as long as these offences are committed against the Greek State, local government organizations, public law legal entities, legal entities of the broader public sector or against the European Union or as long as they seriously harm national economy.

The Financial Crime Public Prosecutor is notified of all complaints and information for crimes within its competence, evaluates and investigates this information and any other information brought to his attention.

For the investigation of cases belonging to the jurisdiction of the Financial Crime Public Prosecutor, a preliminary examination or investigation of the preliminary general or specific employees can be ordered by him.

The Financial Crime Public Prosecutor shall have access to every information or data pertaining to or useful for the performance of their duties, not being subject to the restrictions of laws on tax, banking, stock exchange, or any other kind of secrecy and they shall also have access to any kind of files of a Public Authority or an Organization maintaining or processing personal data.

C) *The National Coordinator for Combating Corruption (L.4152/2013)*

The institution of the National Coordinator for Combating Corruption was established by L. 4152/2013 and his/her assignment is to form the National Strategy for the fight against corruption within the public sector (political, governmental, judicial and administrative levels), the supervision and evaluation of this Strategy, as well as the coordination of the evolved services.

The tenure of the office is five years and the appointment is determined by the Prime Minister. For the work of the Coordinator the Coordinative Committee and the Consultative Body were established.

D) *The Public Prosecutor for the Crimes of Corruption (L. 4139/2013 and L. 4205/2013)*

By the provision of art. 76 of Law 4139/2013, the Public Prosecutors for the Crimes of Corruption are designated at the Public Prosecutor's Offices in Athens and Thessaloniki. The Public Prosecutor for the Crimes of Corruption works in this position in full and exclusive basis, being assisted by two, at least, prosecutors or vice prosecutors to the Court of First Instance. Among the duties of P.P. of these crimes is the supervision, the guidance and the co-ordination of the general and special preliminary investigators, during the conduct of the search, preliminary investigation or preliminary inquiry for the identification of the commission of the crimes within his/her competence. According to the provision of art. 8, Law 4205/2013, the work of P.P.C.C. is supported by an independent Office of Special Experts.

E) We would also like to inform you that a Special Legislative Committee (established within the Ministry of Justice, Transparency & Human Rights) has prepared a draft law about "the reform and the consistency of criminal law against corruption" which was submitted to the Minister of Justice for approval. Then it shall be given for further consultations and for Parliament's final adoption.

Please see the relevant extracts from the above mentioned legislation under the files ANNEX I.

2. **Should set up a well-concerted and strategy-driven action plan to counter financial and economic crime; (cf.2.3.1).**¹

Reply:

*Further to this recommendation the Hellenic Police Headquarters has drafted a supplementary document to the **Programme of Counter Criminal Policy** of the Ministry of Public Order and Citizen Protection under the title “Policy for Combating Financial Crime” (see Annex II). This document includes the priorities of the Hellenic Police for the fight against economic crime and also the targets and the main activities of official and operational nature that should be achieved. This document has been forwarded to other competent Departments of the Police and also to other Ministries such as the Ministry of Justice, Transparency and Human Rights, for being completed and at its final version shall include the overall counter economic crime policy of our country.*

3. **Should implement a robust performance management methodology in all segments of law enforcement and the judiciary. At the very least adequate management information in the form of statistics and key indicators needs to be produced. (cf. 2.3.1)**

¹ The evaluation team has been informed of the progress made in respect of this recommendation and has been made aware by the Greek authorities of the following developments:

- a) A National Operational Program to suppress tax evasion has been constituted by Article 1 of Law 3943/2011, which is anticipated by this Article.
- b) In accordance with the provisions of Law 4022/2011 (judgment of the acts of corruption of politicians etc) Article 2 a preliminary inquiry into serious corruption crimes is conducted by the public prosecutor of the court of first instance and have to be completed within a period not exceeding two months.

Reply:

-Based on Presidential Decree no. 85/2005, the annual action plan of SDOE is prepared. The targets are put within the actions that have been indicated in the National Operational Program for the Fight Against Tax Evasion and the Strategic Plan for the Greek Tax Administration for the period of 2011-2015. By virtue of the Vice Minister of Finance's Decision no 13685/3-10-2013, the means, the procedure and the bodies of control for the achievement of these targets of SDOE have been defined.

-Also, the Customs prepare a periodically of three-month planning of customs' audits which is distributed and implemented by all Customs authorities, all over Greece. This planning is taken place within the National Operational Program for the Fight Against Tax Evasion (Law 3943/2011) and it is conducted within the policy against the illegal trade.

4. Should continue enhancing its capabilities and building up its capacities with regard to fighting financial and economic crime; (cf. 2.3.1)¹

Please see the replies given to the previous recommendations.

5. Should consider setting up a special fast-track programme for high potentials in order to give well qualified young professionals a career perspective while at the same time upgrading the performance of their overall system to combat financial and economic crime; (cf. 2.3.5.)

¹ The evaluation team concedes that progress has been achieved on this point however, reflecting the situation during the on-site visit and the information available at the time has opted to keep it to document the progress made.

Reply:

Within the framework of the technical assistance provided by the Task Force for Greece on Anti Money Laundering issues a training program of a duration of 18 months was planned starting June 2012 and ending December 2013. These seminars were attended by agents mainly from Tax Administration, Customs Administration, SDOE, FIU, Financial and Economic Police (FEP), Bank of Greece, Hellenic Capital Market Commission and Economic Prosecutor Office. This program consists of 3 levels with multiple sessions. The subject of the first level was the anti money laundering awareness, while the second level introduced participants to more specialized topics concerning audits on tax crimes and other economic crimes. On the third level participants examine specific cases and have the opportunity to exchange views on best practices. During the above training program 410 agents were trained. Some of them have attended more than one session. More training is planned for the year 2014.

TRAINING 2012-2013	SUBJECT	NUMBER OF PARTICIPANTS
Level 1	Money Laundering Awareness Training related to Tax Fraud for Financial Investigators	217
Level 2	Asset Recovery, Methods and techniques of Contraband of Goods Investigations, Credit Card fraud, Methods and techniques of Financial Investigation on Money Laundering and Tax Evasion, Intelligence Training, International operations: Techniques for revealing methods of tax evasion in multinational trading – Off shore companies in tax havens, Internet Search Techniques, Management Training for Managers in the Money Laundering Law Enforcement, Net income calculation to identify money launderers/tax evaders, Strategic Analysis Course on Anti Money Laundering, Masterclass : Best Practices	307
Level 3	Case studies, Best practices	39
Workshop	“Anti money laundering : Towards a New Agenda”	121

Also, we were informed by the Customs that special seminars for newly employed personnel are organized on auditing issues of liquid assets availability from/to the EU.

6. **Should consider broadening their approach into an integrated and integral disposition on financial and economic crime complementary to the presently predominant action against tax crime (cf. 2.3.1)**

We have no comment to make for the time being.

7. **Should step up the special training in matters regarding financial crime in the Police force; (cf. 2.3.4.)**

Reply:

A special attention has been given to the training of Police officers. There are many current educational programs on economic crime issues as well as issues on intellectual property violations. Indicatively, we would like to mention that during the period between 30 Sept-31Oct. 2013, 322 Police officers have acquired educational training on the above mentioned issues, and in November 2013 it has been scheduled the training of 667 inspectors of the Police. Furthermore, until the end of the year 2013, it is expected the completion of other currently organized training programs.

8. Should consider institutionalising financial investigators and setting up a formal accreditation process¹ for such specialists; (cf.2.3.4.)

Reply:

With the Minister of Finance's Decision no A2A1042539EΞ2013/7.3.2013 4.091 positions for Auditors of Certification and Compulsory of the State Revenue's collecting was announced. The selection and the evaluation from the applicants for these employment positions were made through a transparent procedure of evaluation based on the typical qualifications and an interview conducted by the Special Committee of Evaluation and Personnel Selection. Out of the successfully selected personnel, the number of 230 persons were placed at SDOE Services. All the above Certified Tax Auditors participate in educational programs of four-week duration which are organized by the National Centre for Public Administration and Local Government.

9. Should introduce tangible avenues of training for prosecutors in matters regarding financial crime and financial investigations; (cf. 2.3.4.)

We have no comment to make for the time being.

10. Should with a view to provide a meaningful response to financial crime consider for the courts a thorough re-engineering of existing processes and the introduction of modern management in these prosecutorial and judiciary bodies; (cf. 2.3.3)

We have no comment to make for the time being.

¹ The Greek authorities have informed that since the on-site visit has taken place the procedures for the accreditation of 2335 financial investigators for the Ministry of Finance have already begun through written examinations, part of which concerns SDOE. The first written examination has taken place on 18 February 2012 and 257 financial investigators were selected. At the same time training in specialized fields of economic crime, e.g. money laundering, is being conducted in co-operation with the Task-Force for Greece of the European Commission.

11. Should ensure that the concept of integrated financial investigations is executed as a standard procedure when investigating serious and organized as well as economic crime; (cf. 2.3.1.)

Reply:

Please see attached the Bank of Greece Governor's Act no 2652/29.2.2012 about the management of the information sharing between the investigating bodies (see ANNEX III).

Furthermore, please note the following:

-In Greece there are many bodies that involve in the fight against serious economic crime (such as the Police, the Economic Police, SDOE, Customs, etc.). Thus, it seems that there is the risk of overlaps during the investigation of a case. In fact, there is not such a risk because from the start of a criminal investigation the competent Prosecutor is informed (who is an independent official according to the Constitution), who takes over the lead of the investigation and decides which of the above mentioned bodies will work on the specific case.

Hence, there is not any overlap and involvement of other body.

An overlap may appear during the phase of the collection of the information, but we consider that the common obligation and the common responsibility of all these bodies to inform the Prosecutor, provides for a smoothly procedure. Furthermore, this kind of procedure functions as prevention to the concealment of the information, something that may happen in the case of the exclusive involvement of only one of the above bodies.

We would like to point out that all the above mentioned investigative authorities have the obligation to inform the independent authority FIU providing to it all the necessary information. In this way, the investigation of a financial exchange may be used for the fight against serious and organized crime not only of a financial nature but also for terrorism or corruption.

-The officials of SDOE as well as the Police officers depend indeed on the Ministry of Finance and the Ministry of Public Order respectively but this dependence concerns only the administrative side of their function/activities. During the investigation of a case these bodies investigate under the direction of the Prosecutor and only by him/her, who possesses all the guarantees of judicial independent and fairness ensures the legitimacy of the investigation and of the whole criminal procedure.

-It's also true that the majority of investigations are conducted by investigative authorities in the region of Attica. This is logical since it is a fact that the half of the total population of our country lives in Attica. In any case, there is not any issue of priority or differentiation of the abilities of the investigative bodies, since the Police, SDOE, Customs, have sub-units regionally and the co-ordination of action in the center and the region is feasible and manageable in a small country such Greece.

12. Should, while taking into account the progress that has been made, in the field of anti-money laundering measures strive to swiftly remedy the deficiencies that have been laid down in the Tenth Follow-up Report of the FATF's third mutual evaluation of Greece; (cf. 2.1.1.4, 2.3.3.)

Reply:

Please find attached the recent report on Greece FATF Mutual Evaluation: First Biennial Update (see ANNEX IV).

Should- notwithstanding the existing administrative sanctions regime-consider introducing the criminal liability of legal persons in order to effectively prosecute serious and organised crimes; (cf. 2.3.2)

Reply:

The introduction of the criminal liability of legal persons in the Greek legislation is against the Constitution and to the fundamental principles of our legal system. So such a recommendation is not possible to be reconsidered. We suggest its deletion.

Should review the management methodologies applied in the prosecutorial and judiciary bodies; (cf. 2.3.2)

We have no comment to make for the time being.

Should encourage with regard to investigations into financial crime and the financial aspects of crime the pro-active approach as observed in the SDOE Regional Directorate in Thessalonica; (cf. 2.3.2)

Reply:

The pro-active auditing is one of the main activities of SDOE (by virtue of its establishment Law 3296/2004, art. 30, para 2, sentence second, point b). As a consequence, all the Regional and Operational Divisions of SDOE carry out pro-active auditing within the annual planning and on the instructions given by the Central Service of SDOE. This fact is also verified by the statistics of the aimed audits which were carried out during the years 2011, 2012 and 2013. More specifically, during the year 2011, 43.318 aimed audits were conducted, in the year 2012, 34.249 audits and during the first ten months of the year 2013, 26.737 audits. Hence, the above mentioned recommendation (15) of the evaluation team which concludes that only the SDOE Regional Directorate of Central Macedonia takes the proactive approach does not depict the reality. We would also like to mention that with the Minister and the Vice Minister of Finance's Decision no A6A 1166403 EΞ 2013/31.10.2013 (art. 1 para 1), which was issued by implementing the provisions of article first, para E, subpara E.2, point 3, subpoint b of Law 4093/2012, the competencies regarding the proactive auditing of the tax legislation and the temporary tax auditing, as well as, the supervision of the customs provisions' implementation have been transferred to the Ministry of Finance's General Secretariat of Public Revenue.

13. Should consider introducing a centralised register of bank accounts in order to facilitate a quick response from the financial sector; (cf. 3.6.1)

Reply:

The General Secretariat for Public Revenue (GSPR) implemented the indirect registry of bank accounts. It is a secure and trusted electronic portal system, through which all agencies with audit and prosecution authority, that has the right to raise the bank privacy, have access to data concerning bank accounts.

The system was established by the Law 4170/2013 (art. 62) and it is implemented by exploiting the existing infrastructure and connectivity between GSIS (General Secretariat of Information Systems within the Ministry of Economy) and TEIRESIAS S.A.. These two entities provide the network infrastructure and software necessary to promote the requests to the banking system, as well as to provide the relevant answers to users.

*For the first phase of the project, access to the system has the **General Directorate of Tax Audit and Collection** of Public Revenue, the **Financial and Economic Crime Unit** (SDOE), the **Financial Intelligence Unit** (FIU), the **Financial and Economic Police** (FEP) and the **Financial Crime Public Prosecutor** (FPP).*

The system offers to authenticated users the ability to submit requests for access to data of bank accounts. The data may reach up to 10 years in the past. Specifically, in the first phase, it is possible for the users to ask for a specific person or entity, information on the existence of a bank account and the current account balance. The system is scalable, so in the near future it will be possible to add additional requests such as the transactions of a bank account or data of loans.

A prerequisite for the use of the system is the knowledge of the VAT number for the natural or legal entity for whom the search is taking place. To ensure that the system will cover and the cases that a bank account hasn't the VAT number in its detail data, a special algorithm is designed to locate the entity through other available data, as the police ID and/or the initials of the name/surname.

Every request includes data that are relevant with the case investigated, such as the number of case file, the audit order number, a court order etc, indicating the involvement of the user with the case. Each request that is submitted must have the approval of the user's supervisor.

The system responds to the request in real time or not later than the next business day morning in the request. All answers will be per account and only the user and his/hers supervisor has the right to access them.

The system is technically ready and is in the testing phase of banks to join it. A needed Ministers Decree and the Regulation of the System are ready to be published.

14. Should continue to set up the National Land Registry in order to provide up-to-date and timely information on ownership and other real estate data; (cf. 3.6.1)

Reply:

We would like to mention the new law L.4164/2013 "Issues regarding the National Land Registry and other provisions" and also the announcement made by the Minister of Environment, Energy and Climate Change, on 1/10/2013 (pls see [http://www.ypeka.gr/Default.aspx?tabid=785&sni\[524\]=2651&locale=en-US&language=el-GR](http://www.ypeka.gr/Default.aspx?tabid=785&sni[524]=2651&locale=en-US&language=el-GR)) about the launch of a large program with 28 new projects of land registry of a budget up to 572 million euro. The target of this plan is, until the year of 2020, the overall national land registry to be completed.

15. Should see that the ongoing process of transposing the Protocol and the Convention of Mutual Legal Assistance between Member States of the EU is swiftly finalised; (cf 3.3.1)

Reply: We have no further information on this issue for the time being.

16. Should see that the ongoing process of transposing the following EU instruments is swiftly finalised;

-Council Framework Decision 2003/577/JHA

- Council Framework Decision 2005/212/JHA

- Council Framework Decision 2006/960/JHA (cf. 4.3.)

Reply:

A Special Legislative Committee (established within the Ministry of Justice, Transparency and Human Rights) has completed its work and has submitted a draft Law (including the transposition of all the above F.Ds) to the Minister of Justice. This text was discussed during the public consultation procedure and pretty soon it shall be tabled to the Greek Parliament for its adoption.

17. Should continue the process of ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (“The Warsaw Convention”); (cf. 4.3)

Reply:

Pls see the reply given to rec. 19, it is about the same draft law.

18. Should consider a more centralised and unison approach with regard the management of assets; (cf. 4.1.1.8, 4.3)

A Special Legislative Committee (established within the Ministry of Justice, Transparency and Human Rights) has completed its work and has submitted a draft Law to the Minister of Justice, Transparency & Human Rights, which includes the above mentioned issue.

- 19. Should promote the presence of Greek law enforcement personnel at Europol not only as liaison officers, but e.g. as seconded national experts (SNEs) which will then be able to channel the pooled expertise into the newly created unit for fighting economic and financial crime; (cf. 3.6.5)**¹

Reply: We have no comment on this issue.

¹ SDOE informed after the on-site visit that they intended to support their presence at EUROPOL with the replacement of a liaison Officer and also with the replacement of staff as NE (Seconded National Experts).