



Adoption: 21 June 2013
Publication: 1 July 2013

Public
Greco RC-I/II (2011) 1E
Addendum

Joint First and Second Evaluation Rounds

Addendum to the Compliance Report on Italy

Adopted by GRECO
at its 60th Plenary Meeting
(Strasbourg, 17-21 June 2013)

I. INTRODUCTION

1. GRECO adopted the Joint First and Second Round Evaluation Report on Italy at its 43rd Plenary Meeting (Strasbourg, 29 June – 2 July 2009). This report ([Greco Eval I-II Rep \(2008\) 2E](#)) was made public by GRECO on 16 October 2009.
2. Italy submitted the Situation Report required under the GRECO compliance procedure on 31 January 2011. On the basis of this report, and after a plenary debate, GRECO adopted the Joint First and Second Round Compliance Report (RC-Report) on Italy at its 51st Plenary Meeting (27 May 2011). This last report was made public on 14 June 2011. The Compliance Report ([Greco RC-II \(2011\) 1E](#)) concluded that recommendations ix, xiv and xxii had been implemented satisfactorily and recommendations ii, iv, vi, vii, xii and xiii had been dealt with in a satisfactory manner. Recommendations i, iii, v, viii, x and xvi had been partly implemented and recommendations xi, xv, xvii, xviii, xix, xx and xxi had not been implemented. GRECO requested additional information on their implementation. This information was provided on 17 December 2012 and complemented on 29 April 2013.
3. The purpose of this Addendum to the Joint First and Second Round Compliance Report is, in accordance with Rule 31, paragraph 9.1 of GRECO's Rules of Procedure, to appraise the implementation of recommendations i, iii, v, viii, x, xi, xv, xvi, xvii, xviii, xix, xx and xxi in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendations i and x.

4. *GRECO recommended that the Anticorruption and Transparency Service (SAeT) or other competent authority, with the involvement of civil society, develops and publicly articulates an anticorruption policy that takes into consideration the prevention, detection, investigation and prosecution of corruption, and provides for monitoring and assessment of its effectiveness.*
5. *GRECO recommended that an entity, whether it is the Anticorruption and Transparency Service (SAeT) or otherwise, be given the authority and the resources to systematically evaluate the effectiveness of general administrative systems designed to help prevent and detect corruption, to make those evaluations public, and to make recommendations for change based on those evaluations.*
6. GRECO notes that in the Compliance Report, it took stock of the reform under way to establish an anticorruption policy in Italy. Pending adoption of the new legislative package, GRECO assessed recommendations i and x as partly implemented.
7. The Italian authorities now report on a comprehensive set of measures to strengthen the transparency, accountability and efficiency of public administration. A key development is the adoption of Law No. 190, on 6 November 2012, on Measures to Prevent and Suppress Corruption and Illegality in Public Administration (hereinafter Anticorruption Law). In terms of its preventive instruments, the Anticorruption Law includes, *inter alia*, provisions on ethics (i.e. the adoption of a code of conduct for all public officials, the infringement of which may entail disciplinary action – see also paragraph 38), conflicts of interest (in this connection, see also paragraph 44), whistleblowing protection and pantouflage, transparency of public administration

processes (e.g. information on public administration activities and budgets, details on public tenders and contractors).

8. The new Anticorruption Law articulates an institutional framework for monitoring, coordinating and assessing the effectiveness of the anticorruption measures developed by each administration at central and local levels. The Commission for the Evaluation, Transparency and Integrity of Public Administration (CIVIT), an independent and autonomous authority, has been established as the national anticorruption authority with a view to implement Article 6 of the United Nations Convention against Corruption (UNCAC), as well as Articles 20 and 21 of ETS 173. The Department for Public Administration of the Presidency of the Council of Ministers remains a strategic stakeholder in the fight against corruption, which, together with CIVIT, shares the main responsibility for developing the National Anticorruption Plan. Each individual administration is responsible for developing an anti-corruption plan, which includes tri-annual transparency and integrity programmes (a total of 117 plans were prepared in 2011 and 2012). The respective anticorruption plans are based on a risk assessment methodology which includes as its main components targeted training on ethics and anticorruption, a rotation system for persons in positions most vulnerable to corruption, and the appointment of a “corruption prevention manager”. Failure to prepare the aforementioned anticorruption plans may trigger disciplinary liability. CIVIT is responsible for monitoring the implementation and the effectiveness of the measures taken by each administration to develop in practice its anticorruption plans, as well as, on the basis of the experience gained, identifying further areas for priority action.
9. On the repressive front, the Anticorruption Bill introduces a number of modifications in the criminalisation of corruption offences (e.g. simplifying the classification of bribery offences, criminalising trading in influence, increasing the available sanctions for bribery, extending limitation periods); it also strengthens the administrative liability regime for public officials who have caused damage to the image of public administration, and broadens the instances in which contracts may become void if they are concluded through corrupt means. Furthermore, those individuals who have been convicted for an offence against public administration are banned from being members of selection boards for access to civil service, being appointed for senior positions involving management of financial resources, or being members of the boards in charge of public procurement procedures.
10. The authorities further report on other initiatives taken to improve the efficiency of public administration and to cut red tape (e.g. 2012 Decree *Semplifica Italy* promoting the use of e-administration, streamlining application processes for companies participating in public tenders, appointing managers to whom citizens can turn for action in the event of administrative silence, etc.). Moreover, a wide set of measures has been developed to increase administrative transparency: an online platform for citizens to analyse and monitor the compliance of individual administration websites with the principle of open government (*La Bussola della Trasparenza*: <http://www.magellanopa.it/bussola/>), substantial amendments to the Code of Public Contracts to, *inter alia*, disclose details on tenders and the corresponding contract awarding, etc. Additional measures are to be introduced pursuant to the provisions of the Anticorruption Law, including the development of new forms of publicity, further exploring ways to make asset declaration more accessible (with the appropriate privacy safeguards), defining categories of administrative information which must be made public, improving website platforms and developing standardised formats for publicising administrative information, etc. The Government recently adopted Legislative Decree No. 33 of 14 March 2013 Disclosure, Transparency and Dissemination of Administrative Information (see also paragraph 32).

11. Finally, as part of its commitment to step up the fight against corruption, Italy ratified the Criminal Law Convention on Corruption (ETS 173) and the Civil Law Convention on Corruption (ETS 174) on 13 June 2013¹; these will enter into force with respect to Italy on 1 October 2013.
12. GRECO is pleased to note the multifaceted initiatives undertaken by the Italian authorities to strengthen anticorruption policy; they all constitute valuable efforts aimed at tackling an area which has been repeatedly identified as a major source of concern for Italian citizens. GRECO encourages the authorities to keep up the momentum of the reform, to ensure that integrity and anticorruption plans are designed and implemented both at central and local level, and to look ahead at risky and emerging areas in order to ensure the effectiveness of the anticorruption fight at all times.
13. GRECO concludes that recommendations i and x have been implemented satisfactorily.

Recommendation iii.

14. *GRECO recommended to establish a comprehensive specialised training programme for police officers in order to share common knowledge and understanding on how to deal with corruption and financial crimes related to corruption.*
15. GRECO notes that this recommendation was considered as partly implemented in the Compliance Report since GRECO took the view that additional steps could be taken to assure specialised training on corruption and financial crimes related to corruption.
16. The Italian authorities provide detailed information on the type and the frequency of training courses for police forces (*Carabinieri, Polizia and Guardia de Finanza*). In particular, they make reference to a vast catalogue training courses attended by the new recruits of the *Guardia di Finanza* and the *Carabinieri*. Depending on the rank of the employee of the *Guardia di Finanza*, the institution offering the training and the length of the training varies, e.g. officials are trained in the Academy for five years, and inspectors are trained in the School for Inspectors and Sergeants for three years. Criminal Law, Criminal Procedure Law, Economic Criminal Law, Tax Law, Ethics in the Public Administration and Corruption are listed among several courses that are offered at these schools. As far as the inter-institutional training courses are concerned, the employees of the *Guardia di Finanza* are frequently involved in seminars on corruption given to judges and prosecutors.
17. GRECO welcomes the information provided concerning the development of specialised training courses for police officers on corruption/economic crime, and concludes that recommendation iii has been implemented satisfactorily.

Recommendation v.

18. *GRECO recommended that in order to ensure that cases are decided on their merits within a reasonable time, to (i) undertake a study of the rate of limitation period-related attrition in corruption cases to determine the scale and reasons for any problem which may be identified as a result; (ii) adopt a specific plan to address and solve, within a specified timescale, any such problem or problems identified by the study; (iii) make the results of this exercise publicly available.*

¹ Laws No. 110 and No. 112 of 28 June 2012 authorised the ratification of ETS 173 and ETs 174.

19. GRECO notes that in the Compliance Report, it pointed out the shortcomings of the analysis undertaken by the authorities in meeting the requirements of recommendation v, i.e. lack of in-depth analysis of the issue and non-disclosure of the analysis and concluded that the recommendation was partly implemented.
20. The Italian authorities refer to the findings of the ad-hoc Committee of the Ministry of Justice, responsible for overseeing implementation of GRECO recommendations, which has conducted an analysis of the rate of limitation period-related attrition in corruption cases during the period 2005 – 2010. The analysis involved the most representative Public Prosecutor's Offices in the North (Milan, Turin and Venice), Centre (Rome and Florence) and South (Bari, Naples and Palermo) of Italy. The collected data shows a slight increase in the investigation of corruption offences (1,5% more in 2010 as compared to 2009 figures) and a decrease in the ratio of time-barred cases which comes under 3% and represents what is allegedly considered to be a standard ratio in the Italian system, where the principle of mandatory prosecution leads to a very large number of prosecutions because all reported offences which are not manifestly unfounded must result in criminal proceedings. The analysis was made public on 23 April 2013 and includes both a thorough review of the rules governing the statute of limitations and their enforcement in practice, as well as policy proposals on how to eliminate the problems identified.
21. Furthermore, the Italian authorities report that the government decided to increase the maximum level of sanctions, on which the period of statute of limitation is determined, that can be imposed on corruption offences² to prevent the risk that prosecution of corruption cases fail because they are time-barred. The new sanctioning regime also extends the periods of the statute of limitation in the cases of "suspension" and "interruption".
22. GRECO takes note of the information provided. The effectiveness and dissuasiveness of the recent extensions in the applicable sanctions for corruption offences will be assessed by GRECO in the light of the recommendation vi contained in its Third Round Evaluation Report (Theme-I-Incriminations) during the relevant compliance process. GRECO recalls the conclusion in its Third Round Evaluation Report that the length of the statute of limitations on paper did not significantly deviate from that in other GRECO member States; that said, GRECO was of the view that the way in which the limitation period was calculated and the role that other factors could play in the investigation of corruption offences in Italy (e.g. complex nature of such investigations, the lapse of time that may occur between the date on which the offence is committed and the day on which it is reported to law enforcement authorities, the available appeal channels, change of judges during the trial process, the delays and overload in criminal justice, etc.) could very easily result in the limitation period expiring in many cases. Therefore, while GRECO acknowledges the measures referred to by the authorities to increase the level of sanctions and thereby extend the corresponding limitation periods, GRECO notes that such a measure in itself cannot suffice to tackle the concerns raised by recommendation v: it is highly possible that cases might still be dismissed due to the expiry of the statute of limitations as long as the other factors that nurture this problem are not fully identified and solved. Therefore, GRECO highlights once more the importance of adopting a plan, with a specified time-frame, offering policy options to tackle the problems identified which result in corruption cases being time-barred. Disclosing this plan to the

² E.g. Article 319 of the Criminal Code incriminates corruption relating to an act in breach of official duties, as recently amended, provides a sanction of imprisonment «*between four and eight years*» (before it was between two and five years); therefore, the situation of time limitation is now the following: the basic statute of limitation is 8 years (before 6 years), that corresponds to the maximum term of sanction for the related offence. In the case of first time offenders and recidivism, this period can be extended up to 10 years (before 7 years 6 months); in the case of aggravated recidivism up to 12 years (before 9 years); in the case of repeated recidivism up to 13 years and 4 months (before 10 years) and in the case of habitual offender up to 16 years (before 12).

public, as required by the recommendation, is of the utmost importance for gaining citizens' support and restoring credibility in the system.

23. GRECO concludes that recommendation v remains partly implemented.

Recommendation viii.

24. *GRECO recommended to put in place appropriate measures to allow the evaluation of the effectiveness, in practice, of the activity of the enforcement authorities concerning the proceeds of corruption, in particular in so far as the application of provisional measures and subsequent confiscation orders are concerned, including in the context of international cooperation.*
25. GRECO notes that in the Compliance Report, it welcomed the development of a database (SIPPI - *Sistema Informativo Prefetture e Procure dell'Italia* - Information System of the Prefectures and Public Prosecutors of Italy) to collect information concerning seizure and confiscation orders in the national territory and encouraged the authorities to pursue their efforts with the assistance of this database to identify areas where further improvements to the current seizure/confiscation regime may be needed. The recommendation was assessed as partly implemented since its final goal, i.e. reviewing the effectiveness of the activity of the law enforcement authorities concerning the proceeds of corruption, was not fulfilled.
26. The Italian authorities now report that the database does not allow, for the moment, for the separation of data related only to corruption offences from other data concerning seizures and confiscation of assets related to other organised crime offences. The reason for preventing the extraction of data on seizure and confiscation of assets connected with corruption from the database is reportedly the financial implications that a programme as such requires. In spite of the financial challenge, a working group is re-examining the question of how feasible it would be to disaggregate data, and thereby provide details on the type of offence whose punishment resulted in confiscation/seizure orders.
27. GRECO welcomes the efforts of the working group in collecting data on seizure and confiscation orders related to corruption offences. That said, regardless of the sufficiency of the data collected so far, the recommendation requires the review of this information with a view to assessing the effectiveness of the activity of the law enforcement authorities and identifying areas where further improvements to the current seizure/confiscation regime may be needed. Furthermore, GRECO regrets to learn that the database, the introduction of which was seen as an important development that would assist in the production of comprehensive statistical data regarding the number of cases and the value of confiscated/forfeited property related to corruption (paragraph 52, Compliance Report), needs to be further developed to fulfil this purpose.
28. GRECO concludes that recommendation viii remains partly implemented.

Recommendation xi.

29. *GRECO recommended that with regard to access to information: (i) an evaluation be conducted and appropriate steps taken to ensure that local administrations are adhering to the requirements for access to the information under their control; (ii) that an evaluation of the law be conducted to determine whether the requirement of motivation is improperly limiting the ability of the public to judge administrative functions where knowledge of a pattern or practice of individual decisions would provide substantial information with regard to possible corruption and to make that*

evaluation and any recommendations public, and (iii) that, in order to avoid an appeal to the backlogged administrative courts, consideration be given to providing the Commission on Access to Information with the authority, after a hearing, to order an administrative body to provide access to requested information.

30. GRECO notes that in the Compliance Report, it regretted the lack of steps taken to perform any of the concrete actions called for in the recommendation. Consequently, recommendation xi was assessed as not implemented.
31. The Italian authorities report that, concerning part (i) of recommendation xi, the law establishes that all information held by local authorities is public, without any need to prove a specific interest in order to access it. The Ombudsperson (*Difensore Civico*) has been entrusted by law concerning the refusals to provide administrative information by local authorities, and on a customary basis, the Commission on Access to Administrative Documents (*Commissione per l'accesso ai documenti amministrative*) has extended its competence to settle individual claims filed against the refusal to give access to administrative information by a local authority, when the office of an Ombudsman has not been instituted in the municipality in question. The statistics gathered by the Commission each year do not suggest any particular problems in this area.
32. With respect to item (ii) of the recommendation, the Commission on Access to Administrative Documents indicates that on the basis of the experience gained in this area and the monitoring performed over access to administrative documents, it would appear that transparency of administrative information in Italy is rather the rule than the exception and the legislative requirement of motivation does not appear to be hampering access to information in practice. Free access (without need to prove any legitimate interest or motivate the request) must be granted with respect to administrative documents held by local authorities, documents concerning environmental protection and documents pertaining to the organisation and functioning of administrative bodies. Moreover, Legislative Decree No. 33 of 14 March 2013 on Disclosure, Transparency and Dissemination of Administrative Information entered into force on 20 April 2013. It represents a consolidated text on the issue and establishes the principle of full accessibility to information concerning the organisation and activities of public administration. It includes an upgraded sanctioning system for violations of the obligations regarding publication and transparency, including those committed by political bodies. It further develops the institution of "civic access", i.e. the obligation on all levels of government to make public information and data which is accessible - at no cost - and in formats open to citizens.
33. Finally, concerning part (iii) of the recommendation, the Commission has repeatedly observed in its annual reports that further consideration could be paid to the advisability of investing it with enforcement powers to order administrative bodies to provide access to requested information, a power which is now exclusively attributed to the administrative judge. Notwithstanding this situation, the protection granted to individuals who have seen their requests denied without proper justification is considered to be very effective: since 2006, a total of 3,293 claims have been filed with the Commission, which has settled them within the 30-day deadline prescribed by law; only 2.17% of the decisions adopted by the Commission have been challenged before administrative judges. Moreover, the claimants are allowed to stand before administrative judges without the necessity of being assisted by a lawyer and can rely on a quick settlement of their claims (maximum delay for claims to be settled is 30 days).
34. GRECO takes note of the details provided, as per the experience gained by the Commission on Access to Administrative Documents, and the Ombudsman at local level, on access to public

information and the channels in place to satisfy individual claims when refusals to grant that information by public bodies occur. GRECO further welcomes the recent adoption of a consolidated legislative text providing for further transparency in public administration.

35. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xv.

36. *GRECO recommended that a publicly announced, professionally embraced, and if possible, an enforceable code of conduct be issued for members of Government, and that such code of conduct include reasonable restrictions on the acceptance of gifts (other than those related to protocol).*
37. GRECO recalls that, in the absence of a code of conduct for members of Government, it assessed this recommendation as not implemented.
38. The Italian authorities refer to the newly adopted Code of Conduct of Public Officials (March 2013) as a key development following the adoption of the Anticorruption Law. This new Code introduces consistent and enforceable ethical standards; it comprises detailed provisions on transparency, conflicts of interests and gifts, for all public officials within public administration (including managers and consultants). The authorities consider that this Code applies to members of Government and that they can only accept protocol gifts, in accordance and within the limits established by Decree of 20 December 2007 on Rules on Protocol Gifts received by Government Members. Having said that, the authorities concede that, in order to enhance transparency and efficiency, it would be better to adopt a specific code of conduct for members of Government.
39. GRECO welcomes the adoption of a Code of Conduct of Public Officials which now clearly applies to managers and consultants. That said, GRECO remains dubious as to whether the newly adopted Code of Conduct of Public Officials covers members of Government since its *personae* scope, as stated in Article 2 (in connection with Articles 1, 3 and 54 of Decree Law No 165 of 30 March 2001), does not specifically refer to them. GRECO can only reiterate its position that clear and enforceable integrity standards must be issued for members of Government; this can only increase public trust with regard to the political class. GRECO welcomes the fact that the authorities share this point of view and have stated their intention to regulate in this respect in the coming months. GRECO further recalls that, with respect to Members of Parliament, it refrained from issuing a formal recommendation (since the matter falls outside the scope of the Joint First and Second Evaluations), but was hopeful that parliamentarians would give serious consideration to the elaboration of a code of conduct as a public signal of their commitment to high integrity. This issue will be examined in the course of the Fourth Evaluation Round.
40. GRECO concludes that recommendation xv remains not implemented.

Recommendation xvi.

41. *GRECO recommended that (i) a clear and enforceable conflict of interest standard be adopted for every person who carries out a function in the public administration (including managers and consultants) at every level of government; and (ii) a financial disclosure system or systems applicable to those who are in positions within the public administration which present the most*

risk of conflicts of interest be instituted or adapted (as the case may be) to help prevent and detect potential conflicts of interest.

42. GRECO notes that in the Compliance Report, it considered this recommendation as partly implemented. GRECO noted that more had to be done to provide consistency in interpretation on clarity of the conflict of interest standard, across the public service, to help prevent and deter such instances from occurring.
43. The Italian authorities indicate that Legislative Decree No. 33 of 14 March 2013 on Disclosure, Transparency and Dissemination of Administrative Information (Articles 14 and 15), has set in place a single disclosure system, which is applicable to members of political bodies (Members of Parliament, Ministers at central, regional and local level), as well as holders of executive positions (including those persons holding such positions with collaboration or other type of consultancy agreements). Financial declarations must be published.
44. The recently adopted Anticorruption Law includes several provisions on conflicts of interest, real and apparent; the obligation to abstain from participating in decisions or taking any action whenever a conflict of interest emerges; and adopts a rather restrictive approach as to the type of additional activities in which public officials may engage – the notion of conflict of interest is broad and the incompatibility rules strict. Furthermore, Legislative Decree No. 39/2013 of 7 May 2013 establishes (i) additional non-assignability/incompatibility rules for managerial positions in the public sector (e.g. persons who have been convicted for an offence against public administration – even if the judgment is not final – cannot hold a managerial post in the public sector; incompatibilities between managerial posts in public administration and posts in private entities controlled, regulated or financed by public administration; incompatibilities between managerial public administration posts and political appointments); (ii) sanctions for failure to comply with the aforementioned rules; and (iii) a monitoring and advisory role for the Commission for the Evaluation, Transparency and Integrity of Public Administration (CIVIT) concerning conflicts of interest. More particularly, CIVIT is assigned responsibility for ensuring publication requirements and for monitoring any irregularity that may occur in this area, with a view to undertaking any additional measure necessary (be it of a regulatory or any other nature, e.g. development of guidance and counselling). Provision has also been made in Decree Law No. 138/2011 to lay out an incompatibility standard for deputies and senators who cannot also be elected representatives at local level, nor in the European Parliament. The authorities further refer to an on-going proposal to amend Law No. 215/2004 regulating conflicts of interest of members of Government³.
45. The Competition Authority, which has been monitoring conflicts of interests of Members of Government, their spouses and relatives up to the second degree of kinship, has helped, through the development of opinions and other advisory materials, to further clarify the applicable conflict of interest standard. In particular, the Competition Authority, has adopted very strict interpretation guidelines concerning the duty to abstain for any public official whenever confronted with a conflict of interest. The notion of conflict of interest is interpreted in broad terms: it covers any possible conflict that may affect the sense of judgement of the person concerned and has effects *ex-ante* to the commission of the offence, as applicable. The Competition Authority has also used the financial declarations submitted to it for preventive purposes in order to determine particular sectors at risk where conflicts of interests were more prone to occur (e.g. radio and television). The authorities also make reference to the jurisprudence developed by the courts which goes in

³ Legislature XVII - Chamber of Deputies Act No. C. 275 "Rules on conflicts of interests of the holders of government office. Delegation to the Government for the adoption of rules on conflicts of interests of local authorities, the regional presidents and members of regional councils".

the same direction: within the meaning of Article 97 of the Constitution concerning the principle of impartiality of public administration, a public official has a duty to abstain, even in the absence of an express provision, whenever a current or potential conflict of interest may influence his/her action (Cassation, Section VI, Sentence No. 25162 of 19 June 2008). The courts have also reiterated that the obligation to report a conflict of interest is an on-going requirement throughout the professional life of a public servant and extends beyond his/her recruitment (Civil Cassation, Labour Section, Sentence No. 5113 of 3 March 2012).

46. GRECO takes note of the information provided and welcomes the attention paid by the authorities in recent years to what is generally acknowledged as a critical source of public concern in Italy. GRECO values the steps taken since the adoption of the Joint First and Second Round Evaluation Report to better clarify the conflict of interest standard and to ensure that it is consistently applied across the public service. In this connection, GRECO welcomes the rules recently adopted to better prevent conflicts of interest from occurring, as well as the decisions issued by the Competition Authority and the courts to provide further guidance on the interpretation of the applicable legislative provisions. GRECO is hopeful that the experience already gained in this area will be of use to CIVIT (which has also been entrusted with oversight responsibilities regarding conflicts of interests) when choosing how the financial disclosure system can best serve as a tool to help prevent and detect potential conflicts of interest. GRECO notes that it will continue to monitor the issue of conflict of interest, in the context of the Fourth Evaluation Round; more particularly, with respect to Members of Parliament, judges and prosecutors.

47. GRECO concludes that recommendation xvi has been implemented satisfactorily.

Recommendation xvii.

48. *GRECO recommended that appropriate restrictions relating to the conflicts of interest that can occur with the movement in and out of public service by individuals who carry out executive (public administration) functions be adopted and implemented.*

49. GRECO notes that in the Compliance Report, it assessed recommendation xvii as not implemented. GRECO noted the plans of the authorities to regulate the movement of public officials to the private sector (pantouflage); however, it deemed that the relevant legislative provisions had yet to be adopted.

50. The Italian authorities report that the Anticorruption Law establishes a “cooling-off period” of 3 years in which public officials, who have exercised authoritative or negotiation powers on behalf of public administration, must refrain from working for private bodies who are the recipients of the activity of public administration by virtue of those same powers. Any contract or work assignment agreed in violation of the aforementioned provisions is null and void, and the private bodies which have signed or agreed to such contract/work assignment will not be awarded any contract with public administration in the following three years. Further limitations are articulated in the Legislative Decree implementing the Anticorruption Law in so far as conflicts of interest are concerned (see paragraph 44). Moreover, authorities further refer to Law No. 215/2004 which bans Members of Government, for 12 months after leaving office, from working for public bodies, working in the private sector, and from doing professional jobs in fields related to their role in the Government. Steps have been taken in recent years to strengthen the control and the guidance functions of the Antitrust Authority (*Autorità garante della concorrenza e del mercato*) in this domain. Likewise, the Commission for the Evaluation, Transparency and Integrity of Public

Administration (CIVIT) has been specifically entrusted with an advisory/preventive and monitoring role in connection with conflicts of interest arising from the movement in and out of public service by individuals who carry out executive functions.

51. GRECO takes note of the applicable rules on pantouflage. GRECO is hopeful that the applicable rules will be enforced in practice; this calls for effective supervision and for the development of guidance to public officials on practical cases involving the ethical dilemma which may appear in situations where they move into a similar, linked or even competing private entity, after leaving public service. The issue of conflicts of interest is a highly controversial matter in Italy which merits careful oversight in order to preserve the credibility of the system. Time and experience will show whether the current restrictions sufficiently address the whole spectrum of conflicts of interest that may arise in this area.

52. GRECO concludes that recommendation xvii has been implemented satisfactorily.

Recommendation xviii.

53. *GRECO recommended that an adequate system of protection for those who, in good faith, report suspicions of corruption within public administration (whistleblowers) be instituted.*

54. GRECO notes that in the Compliance Report, it assessed this recommendation as not implemented since no measures had been effected in law or practice to protect whistleblowers.

55. The Italian authorities now report that the Anticorruption Law provides for a specific provision on whistleblowing. The law enshrines the principle that whistleblowers are to be protected from any retaliatory action. Reports can be made internally (to direct superior), externally (to the judicial authorities or to the Court of Audit) and in an anonymous manner. The Department of Public Service (*Dipartimento della Funzione Pubblica*) is to take all necessary measures to provide for restorative action when adverse consequences have occurred with respect to the whistleblower.

56. GRECO welcomes the fact that rules are now in place to protect whistleblowers and that an institution has been entrusted with specific competencies in the matter. GRECO encourages the authorities to pursue all necessary additional steps to ensure the effectiveness of the recently introduced legislative provision on whistleblowing, including through training and guidance for public officials on the available channels and guarantees for reporting, as well as the applicable mechanisms to protect them from retributive action (e.g. authorities and systems for enforcing protection, forms of compensation).

57. GRECO concludes that recommendation xviii has been implemented satisfactorily.

Recommendation xix.

58. *GRECO recommended that corporate liability be extended to cover offences of active bribery in the private sector.*

59. GRECO notes that in the Compliance Report, it assessed this recommendation as not implemented since no concrete steps had been taken to extend corporate liability to offences of active bribery in the private sector.

60. The Italian authorities indicate that the new Anti-Corruption law introduced some amendments to the Civil Code and to the Law on Corporate Liability (Legislative Decree No. 231/2001) to ensure that active bribery in the private sector is covered. According to these amendments: 1) the last sentence of new article 2635 (bribery between private persons) of the civil code now reads as “whoever gives or promises money or other advantage to the person indicated in paragraphs one and two shall be sentenced to the penalties specified therein”; 2) the offence of unduly inducing someone to give or promise an advantage and bribery is introduced in Article 25 of Legislative Decree No. 231/2001; 3) the following is added to Article 25-ter paragraph 1 of Legislative Decree No. 231/2001 “for the crime of corruption between private persons, in the cases provided by paragraph 3 in Article 2635 of the civil code, the pecuniary penalty of from two hundred to four hundred shares”.
61. GRECO welcomes the legislative amendments made to extend corporate liability to the offences of active bribery in the private sector, as required by the recommendation.
62. GRECO concludes that recommendation xix has been implemented satisfactorily.

Recommendation xx.

63. *GRECO recommended to consider the possibility of establishing bans on holding executive positions on legal persons in all cases of conviction for serious corruption offences, independently of whether these offences were committed in conjunction with abuse of power or in violation of the duties inherent to a given office.*
64. GRECO assessed this recommendation as not implemented in its Compliance Report since no action had been taken in this domain.
65. The Italian authorities report that the Anticorruption Law introduced new rules to prevent corruption in setting up committees and appointing executives. Pursuant to the newly introduced Article 35-bis to Legislative Decree No. 165/2001, any person who has been convicted, even if the judgement is not final, for the criminal offences laid down in Chapter I, Title II, Second Book of the Criminal Code: (a) shall not be part, even with secretarial tasks, of committees for public service access or selection; (b) shall not be assigned, even with executive functions, to offices responsible for financial resource management, purchase of goods, services and supplies, as well as for the granting or disbursement of subsidies, contributions, grants, financial aid or the award of economic benefits to public and private subjects; (c) shall not be part of committees for the selection of contractors for the award of works, supplies and services, for the granting or disbursement of subsidies, contributions, grants, financial aid, as well as for the award of economic benefits of any kind.
66. In addition to the above-mentioned rule, the Italian authorities report that comprehensive and detailed rules concerning bans on appointing executives and on standing for elected offices are also introduced in paragraphs 50, 63 and 64 of Article 1 of the Anti-Corruption Law. Decree Law No. 138/2011 establishes bans on standing for election for the European Parliament, the Italian Chamber of Deputies and Senate, and on standing in regional, provincial, municipal and district elections, as well as on bans on holding the position of chairman and member of the board of directors of consortia, of chairman and member of councils of associations of municipalities, of member of the board of directors and president of the special companies and institutions referred to in Article 114 of the consolidated text on the legal system of local authorities

67. GRECO takes note of the information provided. GRECO refrains, at this stage, from commenting on the new rules concerning ineligibility for elected offices (local, national and European) since these will be evaluated in detail during the Fourth Round Evaluation. Despite welcoming the consideration given to, and the adoption of additional rules, banning the appointment of those involved in corruption to committees and offices in the public sector with financial responsibilities, GRECO considers that these rules fall short of capturing the appointments to the executive positions in private companies or other legal persons in the private sector.
68. GRECO concludes that recommendation xx has been partly implemented.

Recommendation xxi.

69. *GRECO recommended to review and strengthen the accounting requirements for all forms of company (whether listed or non-listed) and to ensure that the corresponding penalties are effective, proportionate and dissuasive.*
70. GRECO notes that it assessed this recommendation as not implemented in the Compliance Report because no action had been taken in this area.
71. The Italian authorities stress that their regulatory system is fully in line with the European Union Directives⁴ regarding disclosure of financial information and accounting and with the European Union Auditing Directive (Directive 2006/43/EC on Statutory Auditing of Annual Accounts and Consolidated Accounts). The authorities further indicate that, notwithstanding several draft bills which have been submitted to Parliament, no regulatory amendments regarding the current accounting requirements of companies have been adopted so far.
72. GRECO regrets that no concrete action has been taken to address this recommendation since the adoption of the Joint First and Second Round Evaluation Report in 2009. As pointed out at that time (paragraphs 189 to 192), the fairly heterogeneous accounting system of Italy falls short of the accounting requirements of the Criminal Law Convention on Corruption (ETS No. 173). In particular, GRECO had misgivings concerning the conditions/thresholds for liability, the determination of penalties and the scope of perpetrators of the offence of false accounting. GRECO also expressed criticism concerning the limited coverage of auditing requirements, which was circumscribed to listed companies, State-owned companies and insurance companies. The information provided by the authorities now does not substantiate that any of the aforementioned concerns have been tackled.
73. GRECO concludes that recommendation xxi remains not implemented.

⁴ The directives that the authorities list are as follows: Directive 78/660/EC Fourth Company Law Directive on Annual Accounts; Directive 83/349/EC Seventh Company Law Directive on Consolidated Accounts; Directive 86/635/EC on the Accounts of Financial Institutions; and Directive 91/764/EC on the Accounts of Insurance Companies.

III. CONCLUSION

74. In addition to the conclusions contained in the Joint First and Second Round Compliance Report on Italy and in view of the above, GRECO concludes that recommendations i, iii, x, xi, xvi, xvii, xviii and xix have been implemented satisfactorily. Recommendations v, viii and xx are partly implemented and recommendation xv and xxi have not been implemented.
75. With the adoption of this Addendum to the Joint First and Second Round Compliance Report, GRECO concludes that out of the 22 recommendations issued to Italy, 17 recommendations have been implemented in a satisfactory manner, 3 recommendations have been partly implemented, and 2 recommendations have not been implemented.
76. Italy deserves recognition for the steps taken to further articulate its corruption policy; the adoption, in November 2012, of a new anticorruption framework law is a clear sign in this direction. Moreover, Italy has now ratified the Criminal Law Convention on Corruption (ETS 173) and the Civil Law Convention on Corruption (ETS 174). Several measures have been introduced to improve transparency and accountability in public administration and to better target areas of public concern including, *inter alia*, the regulation of public tenders and contracts, conflicts of interest, integrity and ethics in public administration, managerial responsibility and whistleblower protection. Likewise, an institutional framework has been established to adopt, implement, monitor and evaluate anticorruption policies. The Commission for the Evaluation, Transparency and Integrity of Public Administration has been designated as the national anticorruption authority with a view to implement Article 6 of the United Nations Convention against Corruption (UNCAC), as well as Articles 20 and 21 of ETS 173; administrations at national and subnational level are entrusted with key responsibilities in the development of anticorruption and integrity programmes for their respective sector of activity. Time and experience will show whether the new system efficiently serves its purpose to prevent and deter corruption. It will be crucial to ensure that all new legislative measures are coupled with effective implementation mechanisms, including guidance for those who are to abide by the law and appropriate sanctions when malpractice occurs. This calls for sustained political commitment. In the same vein, the authorities are urged to set in place a comprehensive plan to address the excessive length of judicial proceedings and the expiration of the relevant time limit specified in the statutes of limitation, as well as to keep under review the issue of corruption in the private sector, including by strengthening accounting and auditing requirements.
77. The adoption of this Addendum to the Compliance Report terminates the Joint First and Second Round compliance procedure concerning Italy.
78. Finally, GRECO invites the authorities of Italy to authorise, as soon as possible, the publication of this report, to translate the report into the national language and to make this translation public.