

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

Phase 4 evaluation of Greece: Final report

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Executive summary

This Phase 4 report by the OECD Working Group on Bribery evaluates and makes recommendations on Greece's implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. The report tracks progress made by Greece since the Phase 3bis evaluation in 2015. It details Greece's achievements and challenges, including on detection of foreign bribery, enforcement of its foreign bribery laws and corporate liability.

The Working Group welcomes the steps to improve detection by including foreign bribery in Greece's National Anti-Corruption Action Plan and Anti-Money Laundering National Risk Assessment. However, it has not seen evidence of an increase in detection of foreign bribery cases, for example the Hellenic FIU has yet to detect any foreign bribery allegations. The Working Group urges Greece to implement new legislation for whistleblowers, to provide clear and comprehensive protections from retaliation for whistleblowers who report foreign bribery. Greece also needs to raise awareness of foreign bribery across the public and private sectors to increase detection.

The Working Group is concerned with the continued lack of investigation and prosecution of foreign bribery cases and notes that since the Convention entered into force in Greece over 24 years ago, there are still no convictions for foreign bribery. In late 2020, Greece merged the specialised Anti-Corruption Prosecutor's Office (PPACC) into the new Economic Crime Prosecutor's Office, and the Working Group will follow closely its efforts in improving the investigation and prosecution of foreign bribery cases. In this context, the Working Group stresses the importance of strengthening safeguards to protect foreign bribery proceedings being subject to improper influence by concerns of a political nature.

Despite multiple reforms to the Criminal Code, some deficiencies in Greece's legislation on foreign bribery remain unaddressed since Phase 3bis. It is regrettable that an amendment to the Criminal Code in 2019 downgraded the main foreign bribery offence to a misdemeanour and, although this amendment was reversed in late 2019, it has long standing implications, for example nearly all foreign bribery allegations being investigated are now time barred. The Working Group is also seriously concerned that sanctions against natural persons are still not effective, proportionate, and dissuasive and in fact have decreased in some aspects.

The Working Group is gravely concerned that Greece does not have an effective legal framework for holding legal persons liable for foreign bribery or related offences, and recommend that Greece make wholesale reforms to its legal framework, including jurisdictional issues and allocating responsibility for enforcing corporate liability to an appropriate authority. A July 2021 legislative amendment requiring a natural person to be irrevocably convicted of an offence before a legal person can be sanctioned is deeply regrettable.

The report also highlights good practices that have the potential to enhance Greece's implementation of the Convention, including the establishment of the National Transparency Authority and a coordination committee with the participation of several enforcement authorities in relation to corruption and other offences. The Working Group also welcome the efforts by Greek prosecutors in continuing the investigations for related offences where foreign bribery allegations are time barred because of the downgrading of the main foreign bribery offence in June 2019.

In terms of positive achievements, the Working Group notes, in particular, Greece's decision to exempt foreign bribery cases from the decision of the Minister of Justice to postpone or suspend criminal proceedings of offences in which the international relations of the State may be disturbed, and provide for the full range of investigative techniques, including special investigative techniques, asset freezing or confiscation, under mutual legal assistance.

The report and its recommendations reflect the findings of experts from Korea and Lithuania and were adopted by the Working Group on 10 March 2022. It is based on legislation, data and other materials provided by Greece, as well as research conducted by the evaluation team. Information was also obtained during the on-site visit in late September 2021, during which the evaluation team met representatives of Greece's public and private sectors, law enforcement, media, and civil society. The Working Group invites Greece to submit a written report in one year on issues concerning enforcement under the new Economic Crime Prosecutor, the liability of legal persons and whistleblower protection legislation, and a written report in two years on the implementation of all recommendations and its enforcement efforts.

Introduction

1. In March 2022, the Working Group on Bribery in International Business Transactions (Working Group or WGB) completed its fourth evaluation of Greece's implementation of the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions (Convention), the 2009 Recommendation of Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009 Recommendation), and related anti-bribery instruments.¹

1. Previous evaluations of Greece by the Working Group on Bribery

2. Monitoring implementation of the Convention, the 2009 Recommendation and related instruments is conducted through successive phases, according to agreed-upon principles and through a rigorous peer-review system. The monitoring process is compulsory for all Parties to the Convention, and on-site visits are mandatory in Phases 2, 3 and 4. The monitoring reports, which are systematically published on the OECD website, include recommendations to the evaluated country. These reports are adopted on a 'consensus minus one' basis, which means that the evaluated Party may voice its views and opinions but cannot block the adoption of the final report and recommendations.

3. In Phase 3 (2012), the Working Group was unable to fully examine many issues because of the Greek authorities' failure to provide timely information, detailed statistics and translated legislation. In addition, a then ongoing case was also of particular concern. The Working Group decided therefore to conduct exceptionally a Phase 3bis evaluation. The Phase 3 Written Follow-up on the country's implementation of all Phase 3 Recommendations was combined with the Phase 3bis evaluation. The Phase 3bis evaluation of Greece took place in March 2015. By the time of the Written Follow-up in 2017, Greece had fully implemented 12 recommendations, partially implemented 13, and 17 were not implemented (Figure 1 and Annex 1). The Working Group was of the view that urgent and immediate action was needed to address Greece's lack of

Box 1. Previous Working Group on Bribery Evaluations of Greece

Late 2019 Technical Mission to Greece and Report²

July 2019 [Public Statement](#) and Letters to Greek authorities

2018 Phase 3bis follow-up: Additional Written Report by Greece [DAF/WGB(2018)43]

December 2017 Phase 3 follow-up: Additional written report by Greece [DAF/WGB(2017)69]

August 2017 [Phase 3bis Written Follow-up Report](#)

2015 [Phase 3bis Report](#)

2012 [Phase 3 Report](#)

2007 [Phase 2 Follow-Up Report](#)

2005 [Phase 2 Report](#)

1999 [Phase 1 Report](#)

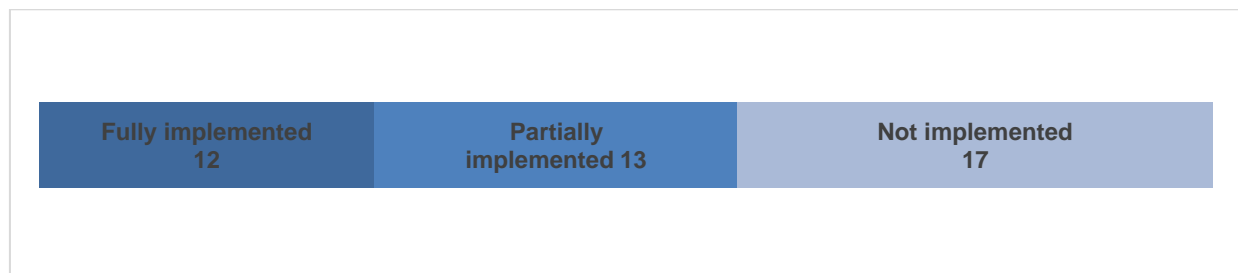
¹ On 26 November 2021, the OECD Council adopted the Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions (the 2021 Recommendation), in order to strengthen the implementation of the OECD Anti-Bribery Convention and further enhance the fight against foreign bribery. The 2021 Recommendation updates and expands upon the original 2009 Recommendation. As the 2021 Recommendation was not in force at the time of the on-site visit for the Phase 4 evaluation of Greece, the recommendations that the Working Group has formulated in this report refer to the 2009 Recommendation.

² This report is confidential.

compliance with Article 2 of the Convention (i.e. absence of effective corporate liability legislation). As a result, Greece was asked to provide an additional written report in October 2017. Moreover, due to the lack of implementation of Phase 3bis recommendations, the Working Group agreed that Greece would report back in writing in one year (June 2018) on recommendations 2(c) and 2(d) (foreign bribery offence); recommendations 4(a), 4(c) and 4(d) (investigations and prosecutions); recommendations 5(a), 5(b) and 5(c) (sanctions); recommendation 6 (statute of limitations); recommendation 7(a) (MLA); recommendation 10(e) (internal controls and ethics) and recommendation 13(e) (whistleblower protection). Greece was also asked to report on its enforcement efforts.

4. In June 2019, the Working Group became concerned that amendments to the Criminal Code (CC) and Code of Criminal Procedure (CCP) that entered into force on 1 July 2019 could leave Greece in breach of the Convention and the 2009 Recommendation. As a result of these amendments, the main active bribery offence was downgraded from a felony to a misdemeanour, which is a less serious offence in Greece (see analysis in Part B.1(a)). The Working Group was concerned that this amendment could have far-reaching ramifications, ranging from the closure of ongoing corruption-related investigations and prosecutions, to possible hindrance of international cooperation in future cases and shorter limitation periods. The Working Group issued a critical public statement in July 2019. It also agreed to issue a letter to the Greek Prime Minister and to the newly appointed Minister of Justice.³ Both letters outlined serious concerns about the potential impact of the revised anti-corruption criminal measures. Finally, the Working Group decided to conduct a Technical Mission to Greece, which took place on 29 October 2019. The mission was conducted jointly with the Council of Europe Group of States against Corruption (GRECO), which had also decided in June 2019 to carry out an urgent evaluation of Greece's amendments to its CC. In December 2019, the Working Group adopted the Technical Mission to Greece report, which contained indications of issues of concern to be assessed during the Phase 4 evaluation.⁴

Figure 1. Greece's Implementation of its Phase 3bis recommendations



2. Phase 4 process and on-site visit

5. Phase 4 focuses on three crosscutting themes – detection; enforcement of the evaluated Party's foreign bribery offence; and corporate liability for the offence (liability of legal persons). Additionally, it addresses the Party's progress on previously unimplemented Phase 3 or 3bis recommendations, issues raised by changes to the Party's legal and institutional frameworks for combating foreign bribery, as well as any new issues that come to the Working Group's attention. Phase 4 considers each Party's unique situation, resulting in a report and recommendations that address the specific challenges and achievements of each Party in a more targeted manner than previous Phases. This result is largely achieved by focusing first and foremost on the recommendations from Phase 3 or 3bis that were not fully

³ In August 2019, the Minister of Justice sent a letter to the Working Group, outlining steps to follow for the amendment of the relevant provisions.

⁴ This report is confidential.

implemented by the end of that cycle. This means that issues that were not problematic or were resolved by the end of Phase 3 or 3bis may not be reflected in the Phase 4 Report, while wholly new issues that have arisen since that time may appear in this report for the first time.

6. The team for this Phase 4 evaluation of Greece was composed of lead examiners from Korea and Lithuania, as well as members of the OECD Anti-Corruption Division.⁵ After receiving Greece's responses to the Phase 4 questionnaire and supplementary questions, the evaluation team conducted an on-site visit to Athens from 27 September to 1 October 2021. The team met with representatives of Greece's government, law enforcement authorities, the judiciary, the private sector (business associations, companies, financial institutions, lawyers and external auditors), as well as civil society (non-governmental organisations, academia and the media).⁶ The evaluation team expresses its appreciation to all the participants for their contributions to the open and constructive discussions. The evaluation team is also grateful to Greece, in particular the National Transparency Authority (NTA) and the Ministry of Justice (MOJ), for the cooperation throughout the evaluation, the organisation of a well-attended on-site visit, and the provision of additional information following the visit. However, Greece was late in providing its responses to the Phase 4 questionnaire and then did not provide answers to some of the questions asked or translations for legislative provisions requested. On the first day of the on-site visit, Greece informed the evaluation team that important amendments to the CC and CCP had that day opened for public consultation. The amendments were subsequently adopted in November 2021 by the Greek Parliament, however, the evaluation team did not have the full opportunity to review and test these amendments during the on-site visit.

3. Greece's Foreign Bribery Risk in light of its Economic Situation and Trade Profile

(a) Economic background

7. Greece is a relatively small economy in the context of the Working Group, placing it as the 34th largest economy in terms of gross domestic product (GDP) among its 44 members.⁷ Greece's economy is projected to grow by 5.0% in 2022.⁸ Rising disbursements of Greece's substantial EU-funded Recovery and Resilience Plan will likely support investment in 2022.⁹ A series of factors, including the recovery in the tourism sector, and the strength in global merchandise trade will have positive effects in the country's economy in 2022.¹⁰ Some effects of the severe economic crisis that started in 2008 are still present,

⁵ Korea was represented by Mr. **Jinhee Lee**, National Prosecutor at the International Criminal Affairs Division of the Ministry of Justice and Mr. **Jong Won Lee**, Public Prosecutor at the Seoul Central District Prosecutors' Office. Lithuania was represented by Mr. **Tomas Meškauskas**, Senior Prosecutor at the Prosecutor General's Office of the Republic of Lithuania and Mr. **Simonas Grebelis**, Head of the Monitoring and Coordination Division at Investigation Coordination Department of the Special Investigation Service of Lithuania. The OECD was represented by Mr. **Paul Whittaker**, Coordinator of the Phase 4 Evaluation of Greece; Mr. **Apostolos Zampounidis**, Legal Analyst and Mr. **Vitor Geromel**, Legal Analyst, all from the Anti-Corruption Division, Directorate for Financial and Enterprise Affairs.

⁶ See Annex 2 for the list of participants in the on-site visit discussions.

⁷ [UNCTAD, Gross domestic product: Total and per capita, current and constant \(2015\) prices, annual.](#)

⁸ OECD (2021), [OECD Economic Outlook, Volume 2021 Issue 1](#), No. 109, OECD Publishing, Paris, p.126.

⁹ *Ibid.*

¹⁰ *Ibid.*, p.128.

however. As will be discussed below in different sections, Greece is still promoting reforms in the areas of export credits and official development assistance.

8. In terms of value of exports of goods and services, Greece ranks 36th in the Working Group.¹¹ Greece's main destinations for goods exports in 2019 were European Union countries (mainly Italy, Germany and Bulgaria), Turkey, the United States (US), the United Kingdom (UK) and Lebanon. In terms of services, the main destinations were European Union countries, the US, People's Republic of China, Switzerland, and Brazil. Greece's main exporting merchandises were fuels and mining products, manufacturing and agricultural products. Travel and transport were Greece's largest exports in services.¹²

9. Greece also ranks 36th among Working Group countries in terms of foreign direct investment (FDI) outflows, with USD 438 million invested in 2019. The total stock of FDI stood at USD 19 billion at the end of the same year.¹³ The main destinations of Greek outward FDI in 2020 were Cyprus,¹⁴ Bulgaria, Hong Kong (China), the US, and Turkey.¹⁵ Financial and insurance were the economic activities with by far the largest outward FDI flow in 2020, followed by manufacturing, and construction.¹⁶

10. Small and medium-sized enterprises (SMEs) in the non-financial business economy account for almost all of the companies registered in Greece (821 209 of the total 821 540 companies)¹⁷. The majority of SMEs are active in wholesale and retail trade and manufacturing.¹⁸ In 2018, SMEs represented 98% of the total number of exporting enterprises and accounted for 43,8% of the total value of Greece's exports.¹⁹

(b) The economic impact of the COVID-19 health crisis

11. The pandemic caused a significant impact on Greece's economy in 2020. Greek GDP contracted by 8.2%, exports contracted by 21.7%, and the total domestic demand decreased by 2.8%. Travel and transport services collapsed and tourism activity decreased significantly due containment measures, travel restrictions, social distancing and high uncertainty.²⁰ For 2021, preliminary data show a better scenario and the easing of travel restrictions is expected to support services activity and exports. Tourism is expected to recover, as vaccination campaigns are successful globally.²¹

¹¹ [UNCTAD, Goods and Services \(BPM6\): Exports and imports of goods and services, annual.](#)

¹² [WTO trade profiles – Greece.](#)

¹³ [UNCTAD, Foreign direct investment: Inward and outward flows and stock, annual.](#)

¹⁴ Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognizes the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

¹⁵ [Bank of Greece. BPM6 FDI abroad by country.](#)

¹⁶ [Bank of Greece. BPM6 FDI abroad by activity.](#)

¹⁷ [Greece – 2019 SBA Fact Sheet, Europa.eu](#)

¹⁸ [Greece – 2019 SBA Fact Sheet, Europa.eu](#)

¹⁹ Hellenic Statistical Authority (2018), [Statistics on international trade in goods by enterprise characteristics \(TEC\).](#)

²⁰ OECD (2020), [OECD Economic Surveys: Greece 2020](#), OECD Publishing, Paris, p. 10.

²¹ OECD (2021), [OECD Economic Outlook, Volume 2021 Issue 1, No. 109](#), OECD Publishing, Paris, p. 126.

(c) Greece's exposure to foreign bribery risks

12. Greek businesses operating overseas have a relatively high exposure to foreign bribery. Greece's exports and outgoing FDI are targeted to sensitive sectors such as mineral extraction, manufacturing, and transportation.²² The main destinations of Greece's goods and services, and outgoing FDI include countries ranking low in the 2021 Transparency International Corruption Perceptions Index.²³

13. The construction, transportation and storage sector is of high risk of foreign bribery, being responsible for 30% of the concluded cases at the time of the 2014 OECD Foreign Bribery report.²⁴ In addition, most foreign bribery cases described in this evaluation report concern the construction sector, but pre-date the financial crisis. Greece's shipping industry is of particular interest and one of the cases highlighted below involves this sector. The shipping industry is of vital importance to Greece's economy. It represented almost 7% of Greece's GDP in 2019 and sustained, directly or indirectly, more than 160 000 jobs.²⁵ Greece is the top ship owning country in terms of cargo-carrying capacity representing over 40% of the world's tonnage.²⁶

4. Summary of foreign bribery enforcement in Greece

14. In Phase 3bis (para. 13), the Working Group noted that Greece had terminated two foreign bribery cases and seven others were under preliminary investigation. One other case that involved allegations that Greek individuals bribed foreign public officials was under investigation, not for foreign bribery, but for another offence.

15. Greece has provided updates on its foreign bribery cases to the evaluation team in the Phase 4 questionnaire and during the on-site visit. As of January 2022, five cases are ongoing, four have been terminated and one case was concluded.

(a) Concluded cases

*State tobacco company case*²⁷

16. Two Greek companies allegedly bribed a senior official of an Algerian state-owned enterprise (SOE) tobacco company. Greek authorities learned of the allegations after receiving an MLA request from Algeria in late 2014. A Greek prosecutor in Thessaloniki, who was responsible for executing the MLA request, launched a preliminary investigation in Greece. Senior officers in both Greek companies were charged with foreign bribery and, in October 2018, six individuals were sent to trial before the Thessaloniki Court of First Instance. Five of them were acquitted by the Court of Appeal of Thessaloniki, and the prosecution ceased against the sixth person due to his death (decision 448/2019 of the Court of Appeals

²² OECD (2014), [OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials](#), OECD Publishing, Paris, p. 22.

²³ Turkey (96th), Bulgaria (78th), Cyprus (53th). [Transparency International. 2021 Corruption Perceptions Index.](#)

²⁴ OECD (2014), [OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials](#), OECD Publishing, Paris, p.22.

²⁵ Deloitte (2020), [Impact Analysis of the Greek Shipping Industry](#), p. 19.

²⁶ UNCTAD (2020), [Review of Maritime Transport](#), p. 37.

²⁷ In Phase 3bis, this case was referred as cases no. 8 and 9.

of Thessaloniki). Greece indicates that the acquittals were due to the lack of sufficient evidence, especially the lack of a response of an outgoing MLA request to Algeria.

(b) Terminated cases

Construction company case²⁸

17. Two executives from a subsidiary of a Greek construction company in Oman allegedly paid EUR 380 000 in bribes to an Omani public official in order to facilitate the award of a project in Oman. Another executive allegedly paid a bribe to a former CEO of an Omani SOE in order to facilitate the Greek company's operation in that country. In March 2014, representatives from the Greek construction company pleaded guilty before a court in Oman. Two of them were sentenced to three years' imprisonment, fines and expulsion from the country after their jail sentences are served. Another two executives were sentenced to three years' imprisonment and fines.

18. Greece made an MLA request to Oman in 2014. The Financial and Economic Crime Unit (SDOE) had been tasked with investigating the activities of the representative of the Greek construction company in Greece. Prosecutors executed a search and seizure warrant at company's premises in Athens. In March 2017, the Economic Police Service (EPS) of the Hellenic Police began investigating the company's executives for money laundering and aiding and abetting foreign bribery. At that time, Greek authorities had lifted banking secrecy and were conducting an audit of the company in Greece.

19. In Phase 4, Greece indicates that there have been no new developments since Phase 3bis in this case. Greece states that this case has been closed as MLA requests to Oman were never answered.

Lottery contract case²⁹

20. Three Greek companies controlled by a Greek national allegedly paid bribes in 2003 to foreign public officials at a Romanian SOE in the lottery sector. The bribes allegedly aimed to ensure the purchase of approximately 6 000 slot machines.

21. Greek authorities became aware of the allegations from the Working Group in 2016, some 13 years after the bribes were allegedly paid. In March 2016, a preliminary investigation was launched by the Public Prosecutor against Crimes of Corruption (PPACC). The PPACC undertook search warrants and sent two MLA requests to Romania, in February and June 2017. The first MLA request was answered. Based on a follow-up informal contact with the competent Romanian prosecutor, the PPACC found that the investigation in Romania did not cover foreign bribery. The second MLA request was not answered, despite a reminder in autumn 2018. It concerned the obtaining of bank information on the suspects.

22. In Phase 4, Greece indicates that the case has been closed after Romanian authorities closed their own investigations and the lack of response to the second MLA request.

Cypriot Paphos waste treatment case³⁰

23. Allegations of bribes paid by several contractors to Cypriot public officials and members of the Paphos Sewerage Board surfaced following a 2014 report from the Cyprus Auditor General. The payments were made in connection with a construction contract worth EUR 78 million for a waste treatment station in Paphos (Cyprus) and neighbouring villages. One unknown contractor allegedly paid EUR 500 000 in

²⁸ In Phase 3bis, this case was referred as case no. 4.

²⁹ In Phase 3bis, this case was referred as case no. 5.

³⁰ In Phase 3bis this case was referred as case n. 7.

bribes. A Greek national, owner of a company involved in the construction services, allegedly offered EUR 340 000 in bribes. Another Greek national was allegedly involved in the first phase of the project (2000-2006), as a representative of an unnamed German company, which allegedly paid bribes through a Greek bank account to the former mayor of Paphos. European arrest warrants had been issued against both Greek nationals. In Phase 3bis, at least two Cypriot officials had pleaded guilty to accepting bribes and other charges while others were awaiting trial.

24. In May 2016, the Public Prosecutor's Office (PPO) of Athens initiated a preliminary investigation against the owner of a Greek major construction company for active foreign bribery allegedly committed in 2008-2014. The investigation was prompted by the Decision of the Council of Appeals No69/2016, which rejected the extradition of a Greek citizen and determined that they should face trial in Greece. Given that all the Cypriot officials have been tried and convicted in Cyprus, the PPO of Athens addressed an MLA request to Cyprus asking for the case file. In November 2017, Athens PPO of first instance charged three people with bribery. However, the case was closed due to the expiration of the limitation period due to the downgrading of the main foreign bribery offence from a felony to a misdemeanour (discussed below in Part B.1(a)).

Construction companies consortium case

25. In 2017 a consortium formed by French, Greek, and Romanian construction companies allegedly bribed a Romanian high ranking public official, in order to obtain a railway construction contract worth EUR 627 million. Greek authorities learned of the allegations through the media and conducted a preliminary investigation in the case. In its Phase 4 questionnaire responses, Greece indicates that Romanian authorities have denied the existence of the offence and provided no further information. Based on Romania's responses, the Assistant Prosecutor drafted a report for the Head of the new Economic Crime Prosecutor Office (new ECP) proposing the closing of the case due to the lack of evidence.

(c) Ongoing cases

*Highway construction case*³¹

26. A Greek construction company owned by a Greek citizen was awarded a contract for the construction of a section of a highway in the Republic of North Macedonia. The Greek company won the bid even though its offer was significantly higher than competitors (by EUR 40 million). This contract was part of a project of EUR 270 million, funded by the European Union (EU), the European Bank of Reconstruction and Development (EBRD), the European Investment Bank (EIB) and the government of North Macedonia. Between May 2013 and February 2014, Greek citizens withdrew up to EUR 3.5 million from the EUR 32 million in the bank account of the Greek Company branch office in North Macedonia, which held funds for constructing the project. An opposition party in North Macedonia flagged possible bribery of political officials from the ruling party.

27. In October 2018, Greece brought criminal charges against specific individuals for: i) an aggravated fraud offence against the interests of the European Union; ii) bribery of foreign public officials under articles 236(2) and (1) and 263A(2) CC; and iii) money laundering. This case is being conducted by an investigating judge at the Court of First Instance of Athens with several actions currently pending. Greece has requested MLA from North Macedonia to obtain evidence and has also received MLA requests from this country.

³¹ In Phase 3bis, this case was referred as case n.3.

*Cypriot PEP case*³²

28. In 2007 a Greek national, allegedly paid bribes to a Cypriot politically exposed person (PEP) in return for favourable decisions to benefit a certain financial group. An alleged bribe of EUR 1 million was paid through a sham consultancy contract to a relative of the PEP. The money was channelled through a Marshall Islands-registered company to the bank account of the official's relative. In Phase 3bis, Greece had just opened an investigation on the foreign bribery allegations in this case. In Phase 4, Greece indicates that the investigations are still ongoing. The case was initially closed and later re-opened by the Prosecutor of the Supreme Court. After the onsite visit, Greece indicated that this case is divided in three different files due to its complexity. The investigations mainly focus on crimes of abuse of office, market manipulation, and false accounting. As to the bribery allegations, Cypriot judicial authorities charged Greek citizens with bribery. Greece held a meeting with Cypriot authorities and Eurojust to discuss the case, which is currently being dealt with by the new ECP.

Greek shipping companies case

29. Six Greek shipping companies allegedly paid bribes worth approximately USD 17.6 million to Brazilian public officials, financial operators and politicians in order to obtain contracts worth more than USD 500 million from an SOE in the oil sector. The SOE's Director of Supply allegedly provided insider information in exchange for bribes. A staff member of the Greek MFA in Brazil, a director of two of the shipping companies involved and with indirect ties to three others, allegedly paid the bribes and provided information that would have benefited the Greek companies. It is alleged the bribes were funnelled through offshore companies registered by third parties, including the son of the Greek MFA staff member. The Federal Prosecution Service has charged eight individuals, including Greek nationals. Another State Party to the Convention has also opened an investigation against one of the shipping companies.

30. Greek authorities became aware of this case through media articles. In November 2017, the PPACC ordered a preliminary investigation for active bribery and money laundering. An MLA request was sent to Brazil. In Phase 4, Greece states that the case is now being investigated by the new ECP. A report was issued by the Hellenic financial intelligence unit (Hellenic FIU) followed by an order of freezing of assets. The documentation received through the MLA request is currently being translated.

Greek intermediary case

31. This case concerns alleged foreign bribery by individuals of a UK company and its subsidiaries to secure a contract to supply equipment and services to power a natural gas pipeline between China and Azerbaijan. It is alleged that a company owned by a Greek national residing abroad, was used to disguise the bribes. In 2017-2019, several individuals were charged and sentenced to imprisonment in the US. The Greek national was charged in 2017 by the US authorities and a US court has issued a warrant for his arrest.³³ This case was brought to the attention of the Greek authorities through the media. In Phase 4, Greece indicates that the new ECP is conducting the investigations and it has issued an MLA request to another State Party.

Water and sewage consortium case

32. In April 2011, a consortium formed by a Greek utility SOE providing water supply and sewerage services, and a Swiss financial company, allegedly offered approximately USD 6.7 million as a commission to a British PEP in order to receive a sewage and water supply contract in Kazakhstan. The contract, worth

³² In Phase 3bis, this case was referred as case no. 6.

³³ US DOJ, [Five Individuals Charged in Foreign Bribery Scheme Involving Rolls-Royce Plc and Its U.S. Subsidiary](#).

at least USD 685 million, was attributed to the consortium through the PEP's influence with high-ranking Kazakh public officials and business executives. The then chief executive officer of the Greek SOE initially approached the British PEP when they held an important position in the UK government. The project was cancelled in late 2011, when the Greek SOE pulled out following political turmoil in Kazakhstan. Greek authorities learned of the allegations through the media. In Phase 4, Greece states that a preliminary investigation has been launched by the new ECP in cooperation with SDOE.

(d) Passive foreign bribery cases of interest

German submarines case

33. In 2000, a German incorporated company, allegedly paid USD 11 million in bribes to public officials in Greece to secure a contract worth EUR 1.26 billion for the sale of four German submarines to the Greek navy. The bribes were allegedly paid through a lawyer's firm in Zurich and a network of offshore bank accounts. The former CEO of the German company was allegedly aware of these payments. Other allegations involving the same company include bribes paid in the context of the transfer of a naval yard and bribes paid to a former Minister of Defence. In Phase 4, Greece states that criminal charges have been brought against specific individuals for defrauding the Greek State and for abuse of office. Greece requested MLA to another State Party regarding the opening of bank accounts. Liechtenstein requested MLA from Greece regarding the taking of testimony.

Pharmaceutical company case

34. Employees of a Greek subsidiary of a pharmaceutical company based in another State Party allegedly paid bribes to multiple public officials and private doctors in Greece in order to increase the sale of pharmaceutical products. The allegations emerged following reports of two whistleblowers, who provided the US government with documents revealing the scheme.³⁴ In June 2020, the subsidiary of the pharmaceutical company in Greece and a former subsidiary of the same company agreed to pay USD 233 million in criminal penalties to resolve the US Department of Justice's (DOJ) investigation into FCPA violations. The pharmaceutical company had also agreed to pay \$112 million to the US Securities and Exchange Commission (SEC) in a related matter.³⁵

35. In Greece, the case became known as "biggest scandal since the establishment of the Greek state".³⁶ The case sparked a political crisis with bribery allegations against two former prime ministers and eight former ministers. As is discussed below, political pressure led to the resignation of the chief anti-corruption prosecutor at the PPACC in March 2017, and another was dismissed from the case.³⁷ In its Phase 4 questionnaire responses, Greece indicated that it cannot provide information on this case as it is ongoing.

Commentary

The lead examiners are seriously concerned that, since the entry into force of the Convention over 24 years ago, Greece has yet to sanction any natural or legal person for foreign bribery. Greece has demonstrated no improvement in the area of enforcement since Phase 3bis, and should urgently take measures to achieve stronger enforcement in relation to foreign bribery.

³⁴ Whistleblower Network News, [SEC and DOJ Charges in FCPA Case Prove Bribery Allegations by Greek Whistleblowers](#)

³⁵ US DOJ, [Novartis AG and Subsidiaries to Pay \\$345 Million to Resolve Foreign Corrupt Practices Act Cases](#).

³⁶ Kathimerini (April 2021), [The Novartis trials](#).

³⁷ OCCPR (March 2017), [Greek Corruption Prosecutor Quits over Pressure in Bribery Investigation](#).

A. Detection of foreign bribery

36. In Phase 3bis, the Working Group recommended that Greece develop and implement a strategy to detect cases of foreign bribery involving Greek individuals and companies (recommendation 13(a)). At the Written Follow-up, the Working Group considered this recommendation partially implemented because Greece had developed the 2018-2021 National Anti-Corruption Action Plan (NACAP).³⁸ However, the 2018-2021 NACAP only covers the role of Greek diplomatic missions in the detection and reporting of foreign bribery, as discussed below. Since then, Greece has also completed its National Risk Assessment for money laundering (NRA), which identifies foreign bribery as a high risk predicate offence.

1. Greece's capacity to detect foreign bribery through its anti-money laundering (AML) framework

37. A broad assessment of Greece's AML framework is beyond the scope of this report. Instead, it will focus on aspects of the AML framework that relate to foreign bribery and outstanding Phase 3bis recommendations 9(b) and 9(c).

38. Since Phase 3bis, Greece has passed new anti-money laundering legislation, Law 4557/2018 (AML Law). It includes provisions, *inter alia*, on the offence of money laundering, PEPs, beneficial ownership information, and reporting obligations. Greece has also completed its NRA in May 2018.³⁹ The NRA identifies corruption, including foreign bribery, among the predicate offences that present the highest risk of money laundering in Greece.⁴⁰ Greece's financial intelligence unit is the Hellenic FIU, which is an independent authority. Additionally, the Hellenic FIU is a hybrid FIU, since the law confers on it both administrative and judicial powers, such as the power to request the freezing of assets before courts.

39. Greece has never detected a foreign bribery case through its AML framework and has a low level of enforcement of the money laundering offence predicated on foreign bribery. Greece's money laundering offence is contained in article 2 AML Law. Article 4(c) and (e) AML Law specify that eligible predicate offences include all bribery offences (articles 159A, 236 and 237 CC). Of the five ongoing cases summarised in this report, money laundering is under investigation or prosecution in only three of them.⁴¹ The 2019 FATF Report indicates that Greece faces serious delays in money laundering investigations and shows a low number of convictions.⁴² A major obstacle to the enforcement of the money laundering offence

³⁸ Greece advises that the 2022-2025 NACAP was endorsed by the Council of Ministers on 9 March 2022, but has not provided a copy to the evaluation team.

³⁹ [2018 National Risk Assessment of Greece](#).

⁴⁰ Other offences include drug trafficking, crimes against property, financial crimes, smuggling of migrants and refugees, and tax offences

⁴¹ Highway construction, Greek shipping companies, and Cypriot PEP cases.

⁴² FATF (2019), [Anti-money laundering and counter-terrorist financing measures – Greece, Fourth Round Mutual Evaluation Report](#), FATF, Paris, para. 187.

could be the high threshold of proof of a predicate offence. During the on-site visit, panellists confirmed that, although under the law no conviction for the predicate offence is required, case law clearly indicates that in practice the predicate offence must be proven beyond reasonable doubt to obtain a conviction for money laundering.⁴³

40. Regarding suspicious transactions reports (STRs), article 5 AML Law sets out a wide range of entities who are obliged to report (known as 'obligated entities'). It includes financial institutions and several designated non-financial businesses and professions, such as lawyers, notaries, and real estate brokers. Article 22 AML Law establishes the reporting obligations. According to this article, the obligated entities, their employees and managers must report the transactions where they know, suspect or have reasonable grounds to suspect that funds, regardless of the amount involved, are the proceeds of criminal activity. STRs are screened by the Risk Analysis Team at the Hellenic FIU and are subject to an internal prioritisation procedure. Foreign bribery is reportedly one of the predicate offences that is of high priority. During the on-site visit, the Hellenic FIU informed the evaluation team that in 2020 it received 7 300 STRs which generated approximately 1 000 cases. Greece is unable to provide a breakdown of the number of STRs by predicate offence.

41. Greek authorities state that STRs are not generated by suspicions on a specific predicate offence, but on the ground of the typologies circulated by the competent supervisory authority. However, the Bank of Greece does not develop typologies specifically addressing predicate offences to money laundering, including foreign bribery. After the on-site visit, Greece provided the typologies prepared by the Bank of Greece in 2012 to its obligated entities.⁴⁴ Although several of them can be useful to help these entities to detect suspicious transactions related to bribery, none refers to foreign bribery specifically and are dated. The Greek authorities also indicated that the Hellenic FIU have held meetings with obligated entities to inform them on the new trends, risks and vulnerabilities related to predicate offences, including foreign bribery. Additionally, the Bank of Greece asked the supervised entities to review their ML/TF risk assessments in accordance with the NRA, which includes corruption and foreign bribery.

42. In Phase 3bis, the Working Group was concerned that the Hellenic FIU had insufficient human resources to deal with the increasing number of STRs. Another concern was that the Hellenic FIU was devoting much greater resources and priority to tax and other offences rather than corruption. The Working Group, therefore, recommended that Greece "take steps to ensure that the FIU is adequately resourced to effectively detect money laundering cases predicated on foreign bribery" (recommendation 9(b)). At the time of the Written Follow-up, the Working Group considered this recommendation partially implemented as Greece had shown that the number of analysts involved in STR analysis increased to 18. Since then, Greece has increased the resources in the Hellenic FIU and, after the on-site visit, the Hellenic FIU informed the evaluation team that it now has 35 employees of which 26 are senior analysts, however, none of these analysts are exclusively dedicated to bribery cases (domestic or foreign).

43. Cooperation with law enforcement authorities has also improved since Phase 3bis. In Phase 3bis, the Working Group was concerned that the Hellenic FIU had a high threshold for referring cases to the prosecution office. The Working Group, therefore, recommended that Greece "take steps to ensure that the FIU promptly refers suspicions of foreign bribery to Greek prosecutors for investigation" (recommendation 9(c)). At the time of the Written Follow-up, this recommendation was considered partially implemented as Greece had appointed a prosecutor as head of the Hellenic FIU, which would favour cooperation, and the cooperation issue had been addressed during a workshop. In Phase 4, during the on-site visit, Hellenic FIU officials confirmed that they would promptly refer suspicions of an offence to law

⁴³ *Ibid.*; Supreme Court (Areios Pagos), Decision [176/2019](#).

⁴⁴ Banking and Credit Committee Decision of the Bank of Greece. Meeting N. 285/9.7.2009. Item 6: Indicative typology of unusual or suspicious transactions within the meaning of Article 4 (paragraphs 13 and 14) Law 3691/2008, supplemented by Bank of Greece Governor's Act 2652/29.2.2021.

enforcement authorities. Other panellists corroborated this information. After the on-site visit, the Hellenic FIU informed the evaluation team that in 2018-2021, it provided 1 480 reports to law enforcement authorities. Greece also indicated that the Hellenic FIU transmits STRs to its foreign counterparts. Furthermore, Greece indicates that law enforcement authorities provide feedback to the Hellenic FIU on a regular basis.

44. Regarding preventive measures, article 3(9) AML Law adopts a wide definition of PEPs, including their family members and close associates. Articles 13 and 18 AML Law provide for enhanced customer due diligence and rules for transactions with PEPs respectively. Article 20 AML Law establishes a series of rules regarding the keeping and sharing of beneficial ownership information by obligated entities and public institutions. The same provision creates a central registry of beneficial ownership information. After the on-site visit, Greece indicated that since February 2021 the central registry has been progressively implemented. Since December 2021, the Hellenic FIU has access to it and will be followed by other authorities from Greece and other European countries (article 20(6) AML Law). The 2019 FATF Report points out that beneficial ownership information on Greek registered shipping companies is maintained in a separate registry, entirely paper based.⁴⁵ This could potentially be an obstacle to law enforcement agencies in a foreign bribery investigation or prosecution. However, at the on-site visit, Greek authorities stated that they do not have issues accessing beneficial ownership information from companies in the shipping industry.

Commentary

The lead examiners welcome the inclusion of corruption, including foreign bribery, in the NRA as a predicate offence that presents a high risk of money laundering. They also acknowledge the improvements in the Greece's AML framework since Phase 3bis, especially regarding the level of resources in the Hellenic FIU and cooperation with law enforcement authorities. For these reasons, they consider Phase 3bis recommendation 9(c) fully implemented and recommendation 9(b) to be converted into a follow-up issue.

However, the lead examiners are concerned that the Hellenic FIU has yet to detect any foreign bribery allegations. They, therefore, recommend that Greece (a) urgently raise awareness of foreign bribery as a predicate offence, and provide additional guidance to reporting entities regarding the detection of foreign bribery, including through case studies and typologies; (b) take the necessary measures, including policy guidance, to ensure that, in practice, a predicate offence does not need to be proven beyond reasonable doubt in order to prosecute and convict for money laundering; and (c) maintain statistics on STRs received to allow the Hellenic FIU to analyse the obliged entities that are reporting STRs and also the underlying predicate offence, including foreign bribery.

2. Reporting by public officials

45. Greek public officials, as well as those who have been temporarily assigned public service, have a duty to report to the competent prosecutor crimes of which they become aware “in the performance of their duties” (article 38(2) CCP). The report must be in writing and contain all the elements relevant to the offence, the alleged offenders, and any available evidence. A breach of duty to report is punishable under article 259 CC by imprisonment of up to two years or a fine, unless the act is punishable by another criminal provision.

46. In Phase 3 and 3bis, the Working Group questioned whether article 26 of the Civil Service Code (Law 3528/2007), which requires civil servants to maintain confidentiality with regard to “matters that are

⁴⁵ FATF (2019), [Anti-money laundering and counter-terrorist financing measures – Greece, Fourth Round Mutual Evaluation Report](#), FATF, Paris, Executive Summary para. 37.

classified as such by the law, or where this is stipulated by common knowledge and sense", might inhibit reporting of crimes. At the time, Greece explained that the purpose of the provision was to set a limit to the disclosure of information obtained during the discharge of public service by an official, and could not prevail over their duty to report crimes under the CCP. Nevertheless, the Working Group recommended that Greece enforce in practice the obligation of its public officials to report crimes (recommendation 13(d)). The Phase 3bis Written Follow-Up report found that Greece had fully implemented the recommendation, including by training public officials on their reporting obligations and introducing an anti-corruption, transparency and accountability module in the compulsory training for all new civil servants.

47. In Phase 4, Greece reiterated its Phase 3bis position regarding article 26 of the Civil Service Code. Greece also reports that, in 2021, it launched a pilot programme for Integrity Officers in three Ministries with competence, inter alia, to provide counselling on matters of ethics and integrity, receive reports on integrity breaches and corruption, including foreign bribery, and follow up on the investigation of the reports (article 24 Law 4795/2021). According to Greece the programme is set to expand to other Ministries and, where relevant, other public authorities (e.g. local government). Greece further reports that, in collaboration with the Ministry of Interior, the NTA is in the process of developing detailed guidance to facilitate reporting by public officials, including foreign bribery, which is expected to be issued in the first half of 2022. However, Greece did not provide information about the number of reports by public officials since Phase 3bis and therefore it is difficult to assess whether the training and awareness conducted so far has resulted in actual reporting as there has never been a case of foreign bribery detected by public officials in Greece.

Commentary

The lead examiners consider that awareness raising is an ongoing obligation and, although they acknowledge that some work is currently being undertaken in this regard, they recommend that Greece continue to raise awareness and provide regular training to public officials who could play a role in detecting and reporting foreign bribery about the offence and reporting obligations.

3. Reporting by foreign diplomatic missions

48. Foreign diplomatic missions have a strategic role to play in the detection and reporting of foreign bribery. Officials posted abroad are well positioned to report foreign bribery to law enforcement authorities in their home country, in particular because of their knowledge of the business opportunities in the host countries and their familiarity with the local environment, including local media.

49. In Phase 3bis, the Working Group was concerned that Greek diplomatic missions abroad were not effective in detecting and reporting foreign bribery. Despite an instruction by the MFA to foreign diplomatic missions to monitor foreign media, they had failed to detect and report foreign bribery allegations involving Greek companies that had surfaced at the time. The Working Group therefore recommended that Greece analyse why embassies have failed to report the allegations and take appropriate remedial action (recommendation 13(c)). The Phase 3bis Written Follow-Up report found that Greece had fully implemented the recommendation, including by issuing Circular 28018/2016 to diplomatic missions abroad.

50. In Phase 4, Greece reports that the role of Greek diplomatic missions in the detection and reporting of foreign bribery is now prescribed in the NACAP, which provides that embassies should follow up printed and electronic press and send relevant information for corruption cases (e.g. foreign bribery) to the PPACC (NACAP Action item 13.2.13). The competence to receive such information has been transferred since then to the new ECP. Greece expects to include similar language in the next NACAP. After the onsite visit, Greece advised the evaluation team that, in February 2021, it integrated the network of its press offices abroad (now Public Diplomacy Offices), which are charged to report local news and monitor foreign media, in the structures of the MFA. Greece submits that this could strengthen the detection and reporting of

foreign bribery by foreign diplomatic missions but this was not discussed during the on-site visit. In July 2021, the NTA and the MFA co-organised a webinar on the importance of transparency in international business transactions, which discussed among others, the role of Greek embassies as potential recipients of foreign bribery allegations.

51. Despite these efforts, Greek diplomatic missions have still yet to detect and report foreign bribery allegations involving Greek nationals and companies. Since Phase 3bis, new foreign bribery allegations have surfaced in foreign media, with some attracting broad coverage and even involving MFA staff (see **Greek shipping companies case**), however, the Greek diplomatic missions abroad did not refer them to the competent authorities. After the on-site visit, Greece reported that, in January 2022, it issued another Circular 2273/2022 to diplomatic missions abroad to raise awareness on foreign bribery. The evaluation team has not been provided with a copy and notes that this is the fifth circular since 2008 and that none of the previous circulars resulted in actual reporting.

Commentary

Whilst the lead examiners welcome the inclusion in the NACAP that embassies should follow up on media reports of corruption and send relevant information to the prosecutors concerned, they are concerned that Greek diplomatic missions abroad continue to not report foreign bribery allegations that have surfaced in foreign media. They therefore recommend that Greece analyse why Greek embassies have failed to report foreign bribery allegations that had been circulated in the foreign media, and take appropriate remedial action. They also recommend that Greece continue to raise the awareness of diplomatic staff of foreign bribery and their role in detecting and reporting foreign bribery allegations to the competent authorities.

4. Whistleblower reporting and protection

(a) Channels for reporting foreign bribery

52. Foreign bribery allegations in Greece may be reported to the new ECP as well as to all other prosecutors' offices in writing or via email. The NTA provides a platform to submit complaints through its website, and even though the channel targets primarily "acts and omissions of Greek civil servants and elected representatives of the local government", Greece indicates that it can accept allegations concerning foreign bribery. With the planned transposition of the EU Whistleblower Protection Directive (see below), Greece states that the NTA will become the central reporting channel for all matters that fall under the scope of the Directive, including foreign bribery. There are no available reporting channels on the MFA website nor at the website of Enterprise Greece, which is Greece's official investment and trade promotion agency, operating under the MFA auspices.

53. In 2019, the NTA received 629 reports of corruption (15.96% of the total reports) predominantly via mail. In 2020, the number of reports decreased to 439 (6.15% of the total reports) with the majority of them submitted via the new NTA online platform. None of these reports concerned allegations of foreign bribery.

(b) Legal framework for whistleblower protection

54. To date, no foreign bribery cases have been detected through whistleblower reporting in Greece and the situation for whistleblowers remains precarious. During the on-site visit, civil society and private sector representatives cited the fear of retaliation and the negative perception of whistleblowers, due to historical reasons, as the main reasons for the lack of whistleblower reporting. Recent reports about alleged retaliation against the whistleblowers in the **Pharmaceutical company case**, and attempts to unveil their identity, have caused greater damage to the perception of whistleblowers and have had an additional

deterrent effect on those who could potentially report allegations of corruption and foreign bribery.⁴⁶ As some parliamentarians and legal profession representatives noted, Greece urgently needs to make a paradigm shift in the way whistleblowers report and are protected, and any legislation would need to be accompanied by significant efforts to support implementation and raise awareness.

55. In May 2020, Greece established a legislative committee consisting of representatives of the MOJ, Ministry of Interior, NTA, judiciary, academia and the legal profession with the mandate to prepare a draft law for the transposition of the EU Whistleblower Protection Directive. Unfortunately, Greece did not transpose the Directive by the 17 December 2021 deadline. Nevertheless, Greece reports that the current draft expressly covers reports of foreign bribery and that a complete draft law should be ready for public consultation and then submission to the Parliament in the first quarter of 2022. During the on-site visit, civil society representatives expressed concerns that there has been no update on the progress of the work of the legislative committee since its establishment and that despite efforts to provide input during the process, these have been unsuccessful. Following the on-site visit, Greece submitted that civil society organisations were invited to provide input but they did not respond.

56. Greece argues that until the transposition of the EU Whistleblower Protection Directive, some limited protection may be available under article 47 CCP. Under this provision, a prosecutor in a corruption case may designate an individual as a “public interest witness”, if the individual (a) provides information that contributes substantially to the uncovering and prosecution of corrupt acts, (b) was not involved in any way in the corrupt acts in question, and (c) did not aim to benefit by providing information about the corrupt act. However, as noted already in Phase 3bis, the threshold for such a designation is too high and the designation is also at the discretion of a prosecutor. If the public interest witness is prosecuted for perjury, false accusation, slander or violation of official secrecy, and the prosecutor determines that the prosecution is not in the public interest, then the prosecutor may order the prosecution to cease. Protection is therefore available only if there is a prosecution. Some additional protection (e.g. protection by the police, deposition with technical means and not in person, non-disclosure of the person’s identifying information, change of identity) may also be available under article 218 CCP. However, none of these measures concern protection from discriminatory or disciplinary action and does not amount to whistleblower protection, as required by the 2009 Recommendation.

57. Greek civil servants who have been designated as public interest witnesses cannot be identified or excluded from promotion or be subject to any disciplinary proceedings or be punished, dismissed or otherwise discriminated against directly or indirectly, in particular regarding career development and placement matters (articles 26(4) and 125(4) Law 3528/2007). In Phase 3bis, the Working Group was encouraged by these measures, however, it regretted that they are available only to public sector employees. It recommended therefore that appropriate measures to protect from discriminatory or disciplinary action also become available to private sector employees (recommendation 13(e)). The Phase 3bis Written Follow-up found that Greece had not implemented this recommendation and no measures to protect private sector employees have been taken since then.

Commentary

The lead examiners regret that Greece has yet to enact legislation that meets the standards of the 2009 Recommendation with regard to whistleblower protection and consider that Phase 3bis recommendation 13(e) remains not implemented. The lead examiners therefore recommend that Greece, in the context of forthcoming reforms, urgently enact legislation that provides strong and effective protections from retaliation for whistleblowers in the public and private sectors who report suspected acts of foreign bribery. In implementing this recommendation, the lead examiners invite Greece to take into account the 2021 Recommendation, XXII. The lead examiners further

⁴⁶ Whistleblower Network News (June 2020), [SEC and DOJ Charges in FCPA Case Prove Bribery Allegations by Greek Whistleblowers](#); Kathimerini (April 2021), [Witness status adds new twist in Novartis probe](#).

recommend that Greece raise awareness of the new law, once this is enacted, and the protections available to public and private sector employees.

5. Media and investigative journalists

58. The Working Group has recognised media reporting as an essential source of detection in foreign bribery cases, as well as an important tool for public awareness raising on corruption.⁴⁷ For these reasons in some other Phase 4 reports press freedom has been highlighted as a concern in relation to the ability of the media to freely report allegations of foreign bribery and the situation in Greece is now becoming a concern.

59. As mentioned above, in Phase 3bis, the Working Group recommended that Greece monitor the Greek and foreign media for allegations of foreign bribery committed by Greek individuals or companies (recommendation 13(b)). At the Written Follow-up, this recommendation was considered partially implemented. At that time, Greece indicated that the Prosecution Offices systematically monitored the media and newspapers, including websites, to be informed of possible criminal offences.

60. In Phase 4, this practice continues and the Prosecution Offices, including the new ECP, make use of open sources, particularly news websites, in order to collect views and evidence and enhance foreign bribery activities. In addition, as also discussed above, the MFA monitors foreign media. Seven foreign bribery cases have been detected through the media and one case through the Working Group (**Lottery contract case**). Of the seven cases detected through the media, four are ongoing (**Greek shipping companies, Cypriot PEP, Greek intermediary, Water and sewage consortium cases**) and three have been terminated (**Construction company, Construction companies consortium, and Cypriot Paphos waste treatment cases**). This demonstrates how important the media is as a source of detection in Greece

61. However, there are some concerns over declining press freedom in Greece, which was highlighted by a panellist in the media and civil society panel.⁴⁸ According to Reporters Without Borders in 2021 Greece was ranked 70th globally (out of 180 countries), five places lower than in 2020, and the fourth lowest ranked country in the EU.⁴⁹ This is a concerning reversal as Greece had been improving on the ranking every year since Phase 3bis. In April 2021, a prominent journalist who reported on organised crime and police corruption was murdered in Athens and a panellist during the on-site visit confirmed they had received death threats and were involved in 80 court proceedings that were being used to try to stop them reporting. In addition, the evaluation team notes that since the on-site visit two investigative journalists have been charged with participation in a criminal organisation, breach of duty and conspiracy to abuse power in relation to the **Pharmaceutical company case**.⁵⁰

Commentary

The lead examiners note the important role of investigative journalism in developing serious, vigorous and high profile reporting of foreign bribery issues and welcome that the Greek authorities have commenced seven investigations following media reports. The lead examiners consider that Phase 3bis recommendation 13(b) is fully implemented. However, they are concerned that the environment in Greece is becoming uncondusive to the reporting of potential foreign

⁴⁷ OECD (2017), [The Detection of Foreign Bribery](#), Chapter 4, OECD Publishing, Paris.

⁴⁸ Unfortunately, during the on-site visit, only two representatives participated in the panel session, one from civil society and the other an investigative journalist.

⁴⁹ Reporters Without Borders (2020), [Greece - Dangerous cocktail for press freedom](#).

⁵⁰ OCCPR (January 2021), [Greek Journalist Union Condemns Prosecution of Investigative Reporter](#); Kathimerini (January 2021), [Publisher summoned over Novartis case](#).

bribery allegations. Accordingly, the lead examiners recommend that Greece ensures that laws relating to freedom of the press are fully applied in practice, and that allegations of foreign bribery can be reported.

6. Self-reporting by companies

62. The Working Group has recognised self-reporting (or voluntary disclosure) by companies as an invaluable source of detection of foreign bribery and notes that across the parties to the Convention, self-reporting by companies accounts for approximately a quarter of all foreign bribery cases detected since the entry into force of the Convention. Greek law does not contain specific provisions on self-reporting by legal persons and therefore has not been a source of detection. However, the actions of the legal person after the commission of the crime may be taken into account by the competent authorities in determining the nature and amount of sanctions against a legal person and could be considered an incentive for self-reporting (see Part C below).

7. Accountants and auditors

(a) Auditing standards

63. In Phase 3bis, Greece estimated that, according to the requirements of Company Law 2910/1920, roughly 6 000 entities were subject to annual external audit. Since then, a new Company Law 4548/2018 came into force with the new categories of entities that are subject to annual external audit set separately under article 2(A.1.)(1) Law 4336/2015:

- (a) Public interest entities and groups, irrespective of their size, as described under Annex 1 of Law 4308/2014 (e.g. credit and insurance institutions) (article 2(A.1.)(1)(b) and (d) Law 4336/2015);
- (b) Medium entities that do not exceed the limits of at least two of the following three criteria (a) total assets of EUR 20 million; (b) net amount of turnover of EUR 40 million; (c) 250 employees on average in the previous financial year (article 2(A.1.)(1)(a) Law 4336/2015 and articles 1(2) and 2(5) Law 4308/2014);
- (c) Large entities and groups that exceed the limits of at least two of the following three criteria (a) total assets of EUR 20 million; (b) net amount of turnover of EUR 40 million; (c) 250 employees on average in the previous financial year (article 2(A.1.)(1)(a) and (c) Law 4336/2015 and articles 1(2), 2(6) and 31(3) Law 4308/2014).

64. According to the information provided by the Hellenic Accounting and Auditing Standards Oversight Board (HAASOB), which is Greece's national supervisory authority of the accounting and audit profession, around 8 000 entities and 244 public interest entities were subject to external audit in 2020. This is a considerable increase compared to Phase 3bis.

(b) Awareness and reporting of foreign bribery by external auditors

65. Awareness and reporting of foreign bribery by external auditors are severely lacking in Greece. At the time of the Phase 3bis Written Follow-Up, and despite some efforts to raise the awareness of foreign bribery among external auditors and encourage them to take into account foreign bribery risks when performing audits (recommendation 10(c)), these have not resulted in the detection or reporting of foreign bribery cases. In Phase 4 Greece has not undertaken new efforts to raise awareness or train external auditors on foreign bribery.

66. Representatives of the major international audit firms who participated in the on-site visit were mostly aware of the foreign bribery offence. However, they were not trained to identify red flags of foreign bribery and none of the red flags that they described were specific to foreign bribery. None of the external auditors present at the on-site visit had considered foreign bribery indicators when auditing a Greek company. In addition, the awareness raising and training activities that they had participated in were not organised by the government or Greece's accounting and audit associations but by the audit firms themselves and were focused, in most cases, on detecting fraud and money laundering, not foreign bribery.

67. A multitude of often contradicting legal provisions and standards that regulate the duty of external auditors to report may further hinder the detection of foreign bribery in Greece, an issue that was first identified by the Working Group in the Phase 3bis report (recommendation 10(d)). Since 2008, Greek external auditors are required to apply the International Standards on Auditing (ISAs) on detecting material misstatements in the company's financial statements due to fraud (ISA 240) and due to breaches of law (ISA 250), and report them to the company's management. External auditors are also bound by the general duty to report crimes to law enforcement under article 40 CCP. However, in Phase 3bis, the application of article 40 CCP in practice seemed doubtful due to the auditor's duty of confidentiality. Finally, external auditors are considered "obligated" entities under article 5(1)(d) AML Law and therefore have a duty to report suspicious money laundering transactions to the Hellenic FIU. The Phase 3bis Written Follow-Up report found that Greece had taken some initiatives to clarify the issue (e.g. clarification of the auditor's duty of confidentiality under the previous Company Law 2190/1920) and the recommendation was considered partially implemented.

68. Discussions at the on-site visit revealed that the Working Group's concerns from Phase 3bis are still valid and the need for Greece to take additional steps to clarify the external auditors' reporting obligations. When asked about their obligation to report suspicions of foreign bribery most of the external auditors referred to their firm's policies to report internally to consider whether the firm should then report the matter to the company's management and/or to law enforcement. Exceptions may apply to suspicions of money laundering, which some external auditors considered that they could report directly to the Hellenic FIU. However, all external auditors stated that they are bound by the duty of confidentiality, which is now stipulated under article 24 Law 4449/2017, and this may deter reporting. Finally, some external auditors referred to the lack of whistleblower protection as a significant deterrent for them to report foreign bribery.

Commentary

The lead examiners are concerned by the lack of capacity and expertise among external auditors in Greece to detect foreign bribery. They also note that the external auditors' reporting obligations remain unclear, in particular, when it comes to reporting foreign bribery. The lead examiners therefore consider that Phase 3 recommendations 10(c) and (d) remain partially implemented and recommend that Greece urgently proceed with (a) raising awareness and providing training to external auditors on the foreign bribery offence, including red flags and methods to detect foreign bribery, and (b) clarifying the obligations and process for external auditors to report suspicions of foreign bribery and raise the awareness of those reporting obligations among external auditors.

8. Tax authorities

69. Greece's Independent Authority for Public Revenue (AADE) has not detected, to date, any cases of suspected foreign bribery and accordingly not made any referrals to law enforcement authorities. This is an area that can be improved and is discussed further under Part D.1.

9. ODA agency

70. The Ministry of Foreign Affairs (MFA), through the Directorate General of International Development Cooperation-Hellenic Aid (Hellenic Aid), administers ODA in Greece. No instance of foreign bribery in ODA has ever been detected or reported to law enforcement authorities. Mechanisms developed to prevent, detect and report foreign bribery in ODA, and more generally implement the 2016 Recommendation for Development Co-operation Actors on Managing Risks of Corruption, are reviewed under Part D.2(c) below.

Commentary

The lead examiners welcome the steps Greece has taken to develop a strategy to improve detection, for example by the inclusion of foreign bribery in the NACAP and the NRA. However, the lead examiners have not yet seen evidence of an increase in detection of foreign bribery cases and they, therefore, recommend that the strategy be improved in relation to foreign bribery detection and fully implemented.

B. Enforcement of the foreign bribery offence

1. The foreign bribery offence

71. Criminal offences in Greece are categorised as felonies and misdemeanours. Any offence with a maximum sanction of up to five years' imprisonment is categorised as a misdemeanour (article 53 CC). Offences with a sanction of five years or more and up to life imprisonment are categorised as felonies (article 52 CC). Depending on how the offence is categorised this affects the pre-trial process, the courts with jurisdiction, and the limitation period.

72. Greece's main foreign bribery offence is contained in articles 236(1) and (2) CC, which covers active (domestic and foreign) bribery. Article 236(1) CC is a misdemeanour, whereas article 236(2) CC is a felony. The difference between the two subsections is whether the bribed public official acted within or breached their duties. If the public official acted within their duties then the offence is classified as a misdemeanour under article 236(1) CC. If, on the other hand, the public official breached their duties then the offence is classified as a felony under article 236(2) CC. Two other offences (both felonies) cover instances of bribery of specific domestic and foreign public officials. Article 159A CC covers cases of bribery of political persons and article 237 CC covers cases of bribery of judges and arbitrators.

(a) The 2019 legislative reforms and its consequences

73. In June 2019, after Phase 3bis, Greece enacted Law 4619/2019, which substantially amended the CC. These amendments were part of a broad reform of the criminal justice system that aimed at addressing overburdened courts and delays in the administration of justice. However, Law 4619/2019 also downgraded article 236(2) CC from a felony to a misdemeanour, resulting in the whole active bribery offence being classified as a misdemeanour. In November 2019, following the Working Group's Technical Mission to Greece, the Greek Parliament adopted a new set of amendments to the CC through Law 4637/2019 reversing the downgrade, and article 236(2) CC became a felony again.

74. However, the consequences of this downgrade have had a significant impact on nearly all existing foreign bribery cases in Greece. Article 2(1) CC provides that "if from the commission of the offence until the final court decision two or more laws have been in force, the most lenient provisions for the accused apply". Accordingly, the downgrade of the foreign bribery offence under article 236(2) CC from a felony to a misdemeanour means that all foreign bribery offences committed between 2008 (when the offence first became a felony) and November 2019 are governed by the most lenient provisions under Law 4619/2019 i.e. lower sanctions and shorter limitation periods that apply to misdemeanours. Accordingly, the downgrade has had significant consequences on Greece's implementation and enforcement of the Convention as will be discussed below (see Parts B2 and B4(c)(iv)).

Commentary

The lead examiners regret that the downgrade of the foreign bribery offence in 2019 whilst temporary has had and may continue to have significant consequences on Greece's implementation and enforcement of the Convention, including with regard to sanctions and limitation periods.

(b) Elements of the offence

(i) Value of the bribe, perceptions of local custom and tolerance of local authorities

75. In Phase 3bis (para. 36), the Working Group was concerned that Greece would take into account factors such as the value of the bribe and local customs when applying the foreign bribery offence, which is inconsistent with Commentary 7 to the Convention.⁵¹ This was because the Explanatory Memorandum to the then CC indicated that the term “undue advantage” should be interpreted as excluding advantages or gestures of minimum value or symbolic in nature, which a person could perform in the context of socially appropriate manifestations of kindness or decency. Although an Explanatory Memorandum is not part of the law, it can be used as an interpretative tool by judges. The Working Group, therefore, recommended that Greece “clarify that its foreign bribery offence does not take into account factors such as the value of the advantage, perceptions of local custom, and the tolerance of local authorities in the country of the foreign public official” (recommendation 2(b)). At the time of the Written Follow-up, the Working Group considered this recommendation not implemented.

76. Greece has still not taken steps to implement Phase 3bis recommendation 2(b). Unfortunately, the Explanatory Memorandum to the current CC (Law 4619/2019) replicates the same language as before and Greece missed the opportunity to implement this recommendation. Although, the Supreme Court has considered the meaning of undue advantage,⁵² judges could still refer to the Explanatory Memorandum and decide whether the offence is complete or not based on the value of the advantage, perceptions of local custom and the tolerance of local authorities in the country of the foreign public official.

77. Discussions with panellists at the on-site visit did not clarify the issue. While the Greek authorities indicated that the Explanatory Memorandum is not binding on judges and prosecutors, some other panellists stated that the foreign bribery offence would not apply for benefits or gestures of minimal value or of a symbolic nature, as provided for in the Explanatory Memorandum. They added that Greek prosecutors would have to prove the foreign law in order to determine whether the advantage is undue. Greece indicates that it has addressed this issue by adding the wording “even if it is not punishable under the laws of the country where it was committed” in the articles 236, 237, and 159A CC. However, the concern here lies in the interpretative Explanatory Memorandum and not in the law itself.

Commentary

The lead examiners regret that Greece has failed to clarify that its foreign bribery offence does not take into account factors such as the value of the advantage, perceptions of local custom, and the tolerance of local authorities in the country of the foreign public official. Therefore, they reiterate Phase 3bis recommendation 2(b).

⁵¹ Commentary 7 of the Convention states the conduct described in Article 1(1) of the Convention amounts to a foreign bribery offence “irrespective of, inter alia, the value of the advantage, its results, perceptions of local custom, the tolerance of such payments by local authorities, or the alleged necessity of the payment in order to obtain or retain business or other improper advantage”

⁵² Supreme Court (Areios Pagos), Decisions [470/2016](#); [1692/2019](#); [718/2020](#); and [917/2020](#).

(ii) *Definition of foreign public official***Officials from public international organisations of which Greece is not a member**

78. In Phase 3bis (para. 40), the Working Group was concerned that the definition of a foreign public official in force at that time failed to cover officials of international organisations of which Greece is not a member. The Working Group therefore recommended that Greece “amend the definition of a foreign public official to ensure that it covers officials and agents of public international organisations of which Greece is not a member” (recommendation 2(c)). At the time of the Written Follow-up, the Working Group considered this recommendation not implemented. Notwithstanding the recent legislative changes, and despite several calls from the Working Group, Greece has not extended the definition of foreign public official to implement Phase 3bis recommendation 2(c).

79. In Phase 4, Greece maintains its position that it is a member of an extensive number of international organisations and, consequently, the recommendation has no practical effect. Greece also states that any possible gap may be filled either by the application of article 236(4)(b) CC (bribery of persons exercising a public office or service for a foreign country) or article 396 CC (bribery in the private sector). However, Greece’s arguments are not convincing. First, Greece is a member of an extensive number of public international organisations, but not all of them (i.e. regional development banks such as the Inter-American Development Bank (IADB)). Accordingly if a Greek company bribed an official of the IADB to win a contract funded by them, this would not fall within article 236(1) or (2) CC. Second, article 236(4)(b) CC only applies to “persons exercising a public office or service for a foreign country” therefore, a person exercising a public office or service for a public international organisation would not be included. Finally, article 396 CC only applies “to a person working or providing services in any capacity in the private sector”. Public international organisations are, by definition, subjects of public international law. They are not in the private sector, thus, also out of the scope of article 396 CC. Additionally, even if applicable, the offence in article 396 CC is a misdemeanour, as opposed to article 236(2) CC which is a felony.

80. During the on-site visit, Greece set forth two additional arguments. First, that the foreign bribery offence would cover officials who are seconded from a country to an international organisation. However, if the official is not seconded but is a member of the organisation’s staff, the offence would not be applicable. Second, and more concerning, Greek authorities affirmed that the CC excludes foreign public officials from public international organisations of which Greece is not a member for reasons of public policy, namely Greece reserves the right to recognise certain international organisations or not and thus to accord the status of an official of an international organisation at its discretion. Therefore, the Greek authorities made it clear that they are not willing to implement Phase 3bis recommendation 2(c).

Commentary

The lead examiners regret Greece’s position of not including officials from all public international organisations in the definition of foreign public officials in the CC irrespective of whether Greece is a member or not. The lead examiners, therefore, reiterate Phase 3bis recommendation 2(c) and recommend that Greece amend the definition of a foreign public official to ensure that it covers officials of all public international organisations.

The definition of state-owned enterprises under Article 237B CC

81. Commentary 14 of the Convention defines an SOE as “any enterprise, regardless of its legal form, over which a government, or governments, may, directly or indirectly, exercise a dominant influence.”⁵³ In

⁵³ Commentary 14 of the Convention: A “public enterprise” is any enterprise, regardless of its legal form, over which a government, or governments, may, directly or indirectly, exercise a dominant influence. This is deemed to be the case,

Phase 3bis, Greece's foreign bribery offence provided a broad definition of foreign public officials that included officials from SOEs. However, this definition was repealed by amendments to the CC in June 2019, which introduced a general definition of public official under article 13(a) CC.⁵⁴ At the time of the Technical Mission to Greece, the Working Group considered this general definition too restrictive to cover public officials from foreign SOEs as defined under Commentary 14. To address this concern, in November 2019, Greece enacted Law 4637/2019, which introduced article 237B CC.⁵⁵ The Working Group decided to follow up in Phase 4 whether the new article 237B CC meets the broad definition in Commentary 14.

82. Greece indicates that article 237B CC is consistent with Commentary 14. It further indicates that the Explanatory Memorandum Law 4637/2019 expressly provides that this provision “intends the harmonisation of national legislation with the OECD [Anti-Bribery] Convention”. Greece also notes that article 396 CC (bribery in the private sector) would apply in the cases where the bribed foreign person is not considered a public official under Greek Law. After the on-site visit, the Greek authorities clarified that the term “administration” in article 237B CC refers to the board of directors and not to senior management of an SOE, which appears to be in line with Commentary 14 of the Convention.

Commentary

The lead examiners consider that article 237B CC appears to be in line with Commentary 14 of the Convention. However, due to the lack of foreign bribery enforcement in Greece it is not possible to assess this fully. They, therefore, recommend that the Working Group follow up on this issue.

The proof of the breach of the official's duties

83. As discussed above, the main foreign bribery offence in Greece is categorised differently depending on whether the foreign public official breached their duty or not. Commentary 3 to the Convention indicates that “a statute which defines the offence in terms of payments to induce a breach of the official's duty could meet the standard [of the Convention]”. However, it adds that it must be “understood that every public official had a duty to exercise judgement or discretion impartially and this is an “autonomous” definition not requiring proof of the law of the particular official's country.” During the on-site visit, the Greek authorities stated that the standard to ascertain whether a foreign public official breached their duty is the law of the official's country and Greek prosecutors, in practice, have to prove foreign law, including for example by using MLA requests. This goes contrary to Commentary 3 to the Convention.

Commentary

The lead examiners are concerned that the requirement to prove foreign law in order satisfy a key element in article 236(2) CC can potentially hamper the enforcement of the foreign bribery offence in Greece. Therefore, they recommend that Greece take the necessary steps to ensure that the

inter alia, when the government or governments hold the majority of the enterprise's subscribed capital, control the majority of votes attaching to shares issued by the enterprise or can appoint a majority of the members of the enterprise's administrative or managerial body or supervisory board.

⁵⁴ Article 13(a) CC: Public official is s/he to whom is has been assigned, even temporarily, the discharge of a public, municipal or communal service, or a service for other public law entities.

⁵⁵ Article 237B CC: “For the purposes of articles 235 and 236, officials shall also be deemed to be persons who serve permanently or not and in any capacity or relationship in organisations or undertakings of any legal form wholly or in the majority of their shares in the State, local authorities or legal persons under public law or whose administration is fully or by a majority appointed by the State or local self-government bodies or legal persons under public law.”

breach of duty of the foreign public official must be construed autonomously without the need to resort to foreign law in line with Commentary 3 to the Convention.

(c) Defences and exemptions from prosecution – defence of effective regret

84. Historically, in Phase 2, the Working Group recommended that Greece repeal the defence of effective regret, which was done in Phase 3. However, in Phase 3bis, the defence of effective regret was re-introduced. Accordingly, in Phase 3bis, the Working Group recommended that Greece amend its legislation in order to eliminate the defence of effective regret for the active foreign bribery offence (recommendation 2(d)). At the time of the Written Follow-up, this recommendation was considered not implemented.

85. As mentioned above, during the on-site visit, Greece informed the evaluation team of a draft law, which would amend the CC and repeal the defence of effective regret for active foreign bribery. The amendment was enacted in November 2021 and the defence was repealed.

Commentary

The lead examiners note that Greece has now abolished the defence of effective regret for foreign bribery having reintroduced it in Phase 3bis. Hence, they consider that the Phase 3bis recommendation 2(d) is now fully implemented.

2. Sanctions against natural persons

86. The level of sanctions against natural persons for foreign bribery in Greece are a longstanding Working Group concern. Despite substantial changes to Greece’s sanctions regime, the concerns remain. The table below provides an overview of the sanctions for the relevant bribery offences in Phase 3bis and Phase 4:

Offence	Sanctions in Phase 3bis	Sanctions in Phase 4
Article 159A CC ⁵⁶ (Felony)	Up to 10 years’ imprisonment and a fine of EUR 15 000 to 150 000.	From 5 to 10 years’ imprisonment and a fine of up to EUR 100 000 ⁵⁷
Article 236(1) CC (Misdemeanour)	From 1 to 5 years’ imprisonment <u>and</u> a fine of EUR 5 000 to 15 000.	From 10 days to 5 years’ imprisonment. ⁵⁸ Fines not available.
Article 236(2) CC (Felony)	Up to 10 years’ imprisonment and a fine of EUR 15 000 to 150 000.	From 5 to 8 years’ imprisonment and a fine of up to EUR 36 000.
Article 237 CC ⁵⁹ (Felony)	Up to 10 years’ imprisonment and a fine of EUR 15 000 to 150 000.	From 5 to 10 years’ imprisonment and a fine of up to EUR 100 000. ⁶⁰

⁵⁶ This article covers bribery of political officials.

⁵⁷ Article 52 CC for the minimum time.

⁵⁸ Article 53 CC for the minimum time.

⁵⁹ This article covers bribery of judges and arbitrators.

⁶⁰ Article 52 CC for the minimum time.

(a) An inadequate level of fines

87. In Phase 3bis, misdemeanour foreign bribery (article 236(1) CC) was punishable with imprisonment and a fine up to EUR 15 000. Felony foreign bribery (article 236(2) CC) was punishable with imprisonment and a fine up to EUR 150 000. The same applied to foreign bribery under articles 159A and 237 CC. The Working Group was concerned that the maximum available fines were insufficient when compared to the multimillion-euro bribes and contracts often seen in foreign bribery cases. Therefore, it recommended that Greece increase the maximum fines available against natural persons for foreign bribery (recommendation 5(a)). At the time of the Written Follow-up, this recommendation was considered not implemented.

88. Between Phase 3bis and Phase 4 the fines were subject to changes, with the most recent change taking place after the Phase 4 on-site visit.⁶¹ With the November 2021 amendments, the CC excludes a fine as an available sanction for the misdemeanour form of foreign bribery (article 236(1) CC). Therefore, and as seen from the table above, Greece has not only decreased the maximum available fines for all forms of foreign bribery, but has also excluded fines as an available sanction for the misdemeanour foreign bribery offence.

89. Monetary sanctions for foreign bribery in Greece are not effective, proportionate and dissuasive. In a case where the briber falls under article 236(1) CC (misdemeanour), a fine is not an available sanction and under article 236(2) CC (felony), the maximum fine now is only EUR 36 000 as against EUR 150 000 previously, which was already considered insufficient in Phase 3bis. Foreign bribery cases often display the payment of substantial bribes in return for highly profitable business advantages. The value of the fines, cumulated with imprisonment time, should be significant enough to deter such practice. On occasions, the Working Group has highlighted that monetary sanctions are a fundamental deterrent for economic offences such as foreign bribery. This is clearly not the case for Greece.

(b) Decrease of sentences of imprisonment, suspension of sentences, and conversion to non-custodial sentences

90. As demonstrated in the table above, overall sentences of imprisonment for foreign bribery under articles 236 CC are lower now in Phase 4 than they were at the time of Phase 3bis.⁶² The imprisonment sentences under articles 159A and 237 CC have remained unchanged since Phase 3bis.

91. Additionally, in Phase 3bis (para. 67), the Working Group was concerned with the suspension of sentences and the conversion of jail sentences to fines. The Working Group therefore decided to follow up “whether sanctions imposed against natural persons for foreign bribery are effective, proportionate, and dissuasive, in light of the system of converting and suspending sentences of imprisonment” (follow-up issue 15(d)).

92. Since Phase 3bis, the system of converting and suspending sentences of imprisonment has changed. Greece indicates that an actual sentence of imprisonment imposed of less than three years will be suspended for a period of one to three years. If the court considers that suspension of the term of

⁶¹ Prior to the November 2021 amendments, the maximum available fine for misdemeanour foreign bribery (article 236(1) CC) increased slightly to up to EUR 18 000. The fine was an alternative sanction to imprisonment under the same provision.

⁶² Following the amendments introduced by Law 4619/2019 in June 2019, which downgraded the whole of article 236 CC to a misdemeanour, sentences of imprisonment decreased. Under article 236(1) CC, the range was 10 days to 3 years’ imprisonment and under article 236(2) CC between three and five years’ imprisonment. In November 2019, Law 4637/2019 amended article 236(2) CC to increase the imprisonment sanction to five to eight years (back to felony).

imprisonment would not be effective to prevent recidivism, it must impose community service (article 99 CC) unless the court thinks that this is not sufficient to prevent the defendant from committing other crimes. In this case, the court will enforce the sentence of imprisonment. Greece adds that the suspension of a sentence of imprisonment may be subject to conditions such as the reparation of damages and payment of money for public purposes (article 99(2) CC). Greece also indicates that sentences of imprisonment can no longer be converted into a fine. A person sentenced to up to five years' imprisonment who has served one-tenth of it has the right to have the remainder of this term converted into community service.⁶³

93. Sentences of imprisonment may be reduced below the statutory minimum considering the mitigating circumstances that are usually seen in foreign bribery cases (i.e. first time offender and good behaviour after the fact).⁶⁴ Other rules providing for further reduction might also apply.⁶⁵ In other words, even if convicted for felony foreign bribery, where the statutory imprisonment time ranges from five to eight years, the sentence can be reduced below the minimum. During the on-site visit, panellists confirmed that individuals convicted of foreign bribery may get the minimum time or below.

94. As mentioned above, imprisonment is the only option for misdemeanour foreign bribery (article 236(1) CC) following the amendments to the CC in November 2021. However, the law increased the maximum sentence of imprisonment under article 236(1) CC from three to five years. The minimum imprisonment time, however, remains unchanged at 10 days.

(c) Sanctions imposed in practice and statistics

95. In Phase 3bis (para. 68), the Working Group noted that Greece was unable to provide detailed statistics on the sanctions imposed in practice in corruption cases. The Working Group, therefore, recommended that Greece “maintain detailed statistics on sanctions imposed in foreign bribery cases” (recommendation 8(ii)). Greece has concluded only one foreign bribery case since Phase 3bis,⁶⁶ which resulted in the acquittal of five individuals and the charges dropped against a sixth who died. Therefore, no sanctions have been imposed in foreign bribery cases since Phase 3bis and the evaluation team is unable to assess whether the recommendation has been implemented.

96. In domestic bribery cases, Greece reports that from 2015 to October 2021, there were 125 convictions under articles 159A, 236, and 237 that resulted in sentences of imprisonment. Imprisonment of 0-5 years was ordered in 71 cases, and imprisonment of 5-15 years in 6 cases with 48 sentences suspended. Additionally, in the same period, the total value of fines, corresponding to 122 convictions, was EUR 63 501.

Commentary

The lead examiners are seriously concerned that the fines available against natural persons for foreign bribery under articles 236(2), 159A, and 237 CC are still not effective, proportionate, and dissuasive and in fact have decreased in some aspects. The fact that Greece has failed to address this longstanding Working Group concern despite multiple reforms to the CC is of serious concern.

The lead examiners further regret that Greece has repealed the monetary sanction for the misdemeanour form of foreign bribery under article 236(1) CC. Given that monetary sanctions are

⁶³ Article 105-A CC.

⁶⁴ Article 84(2) CC

⁶⁵ Article 83(c) CC establishes that where the law provides a reduced sentence without further specification, a sentence of up to 10 years' imprisonment will be reduced to 1 to 6 years. Additionally, article 85(1) CC establishes that when two or more mitigating circumstances are present, the court shall reduce a five years' imprisonment sentence to three years.

⁶⁶ State tobacco company case.

a fundamental deterrent for economic offences such as foreign bribery, they recommend that the Greek authorities re-impose fines in addition to imprisonment for misdemeanour foreign bribery (article 236(1) CC).

Additionally, they reiterate Phase 3bis recommendation 5(a) and, as a matter of urgency, recommend that Greece increase the maximum fines available against natural persons for foreign bribery in all relevant offences. They also reiterate Phase 3bis recommendation 8(ii) and recommend that Greece maintain detailed statistics on sanctions imposed in foreign bribery cases.

The lead examiners further recommend that the Working Group continue to follow up whether sanctions imposed against natural persons for foreign bribery are effective, proportionate and dissuasive, in light of the system of converting and suspending sentences of imprisonment.

(d) Confiscation

97. Article 68 CC and article 40 AML Law regulate confiscation against natural persons. Property subject to confiscation includes the proceeds and instruments of the crime and, if they no longer exist or have not been found, the court may impose confiscation on property of equal value. When no property is found, the court may impose a fine of up to the value of the assets that would have been confiscated. Confiscation can be imposed against a third party if the property was directly or indirectly transferred to them. In its Phase 4 questionnaire responses, Greece stated that confiscation is imposed even if the defendant dies or in the case where the offence is time-barred.

98. Greece also indicates that the Hellenic Asset Recovery Office cooperates with its corresponding institutions from EU countries to detect and trace proceeds and other assets deriving from cross border criminal activity for freezing, seizure or confiscation in criminal cases. However, from 2017-2020 there were no requests regarding foreign bribery. Greece also indicates that it is a member of the Camden Asset Recovery Inter-Agency Network (CARIN), an informal network of contacts and a cooperative group dedicated to all aspects of confiscating the proceeds of crime.

99. Greece has been unable to provide statistics on confiscation in foreign or domestic bribery cases and, therefore, the evaluation team cannot assess whether prosecutors routinely seek confiscation against natural persons in these cases.

Commentary

The lead examiners recommend that Greece maintain detailed statistics on confiscation in foreign bribery cases and draw the attention of prosecutors, including through training or guidance, to the importance of routinely seeking confiscation against natural persons in foreign bribery cases.

3. Related offences of false accounting and money laundering

(a) False accounting offence

100. Greece's false accounting offence for foreign bribery, which has not changed since Phase 3bis, is stipulated in Law 4254/2014, paragraph IE(19). In Phase 3 and 3bis, the Working Group found that the offence complied with the requirements of Article 8(1) of the Convention. However, the Working Group also expressed concerns about the visibility, awareness and enforcement of the false accounting offence.

101. First, the Working Group was concerned about the lack of visibility and awareness of the offence, which is contained in a 107-page "omnibus" law, most of which is unrelated to criminal law or foreign bribery. The prosecutors and investigators who participated in the Phase 3bis on-site visit had little awareness of the offence and no efforts had been made, at that time, by Greece to draw their attention to the provision. The Working Group therefore recommended that Greece raise awareness of the false

accounting offence among law enforcement authorities that may investigate and prosecute this offence (recommendation 10(b)). The Phase 3bis Written Follow-up found that Greece had fully implemented the recommendation. Since then Greece, reports no new awareness raising efforts, and provides no statistics as to whether the enforcement of the false accounting offence has increased as a result of these awareness raising efforts.

102. Second, the Working Group was concerned that the authority that was competent to prosecute foreign bribery (at the time of the Phase 3bis, the PPACC) might not have been competent to prosecute foreign bribery-related false accounting. It therefore recommended that Greece ensure the same authority could prosecute both foreign bribery and false accounting (recommendation 10(a)). The Phase 3bis Written Follow-up found that Greece had not implemented the recommendation. As discussed in other sections, the PPACC has since been merged into the new ECP. The new ECP has broader jurisdiction covering tax, financial crimes and any other related crimes, and can prosecute both foreign bribery and foreign bribery-related false accounting, although there is not yet any practice. Indeed, as explained by Greece in the Phase 4 questionnaire, even though the primary competence to prosecute false accounting lies with the PPO, in cases where there is also foreign bribery, the new ECP can direct the relevant PPO to prosecute both crimes.

Commentary

The lead examiners note that the new ECP has broad jurisdiction covering tax, financial crimes and any other related crimes, and can direct the relevant PPO to prosecute both foreign bribery and foreign bribery-related false accounting. Therefore, they consider the Phase 3bis recommendation 10(a) fully implemented, but recommend that the Working Group follow up on the enforcement of the false accounting offence in practice.

(b) Money laundering offence and prevention measures

103. These issues are discussed in Part A.1 above.

4. Investigating and prosecuting the foreign bribery offence

(a) Investigations and prosecutions

104. In Phase 3bis (para. 78), the Working Group recognised that Greece's record of foreign bribery enforcement had visibly improved since Phase 3 though some concerns remained. Unfortunately, there has been little improvement since Phase 3bis and, of concern, enforcement appears to have regressed in light of several issues outlined below. This includes the consequences of the merger of the PPACC and the Financial Prosecutor's Office (the old ECP), the 2019 downgrade of part of the foreign bribery offence from a felony to a misdemeanour (article 236(2) CC) and Article 5 of the Convention concerns.

(b) Overview of authorities responsible for investigation and prosecution of foreign bribery

105. In Phase 3bis, the Working Group welcomed the establishment of the PPACC, which had been set up a few years earlier in 2011. The PPACC focused on the investigation and prosecution of felonies committed by public officials or government functionaries aiming to gain financial profit or causing damage to the State, the regional and local authorities and public legal entities and also foreign bribery. There was also the old ECP, which specialised in investigating and prosecuting tax and financial crimes committed against the Greek State, Greek regional and local authorities, Greek public legal entities and the European Union, as well as with crimes against the state economy.

106. However, since Phase 3bis, and because of changes to legislation in 2019, foreign bribery cases were transferred from the PPACC to the Prosecutor's Office of the Court of First Instance. Further changes were made and foreign bribery cases were then sent back to the PPACC. Then in late 2020, the PPACC was merged with the old ECP and their responsibilities transferred to form the new ECP. This resulted in the cases being transferred yet again, from the PPACC to the new ECP, noting that none of the prosecutors at the PPACC transferred to the new ECP.

107. The merger of the PPACC could appear to be a very concerning development. However, during the on-site visit the Greek authorities and representatives from the legal profession, academia and civil society justified the merger in terms of minimising duplication of resources. These issues are discussed further below.

108. Despite this merger, there are still several authorities that could investigate allegations of foreign bribery and the evaluation team, even after the on-site visit, was not left with a clear picture as to the circumstances in which an authority would have primary responsibility over foreign bribery and how this is coordinated. Generally, investigations of foreign bribery allegations will be conducted by the new ECP, however, as Greece acknowledges, the PPO could also commence a foreign bribery investigation. The prosecutors at the new ECP can direct other agencies to assist with the investigation, subject to their expertise and powers. However, once the preliminary examination is completed the new ECP decides on the charges (or closing the case) but does not actually prosecute the case but instead directs the PPO to do so. This is because, according to Greece, under the CCP criminal charges can only be brought by Prosecutors of the First Instance of the PPO in the region where the act was committed or where the defendant lives, whereas the new ECP has national jurisdiction.

Commentary

As there have been no successful prosecutions of foreign bribery cases since Phase 3bis the lead examiners are unable to assess the implications of the merger of the PPACC and the effectiveness of the new ECP. Accordingly, the lead examiners recommend that Greece should closely monitor the outcomes of the merger and ensure that it does not hinder the effective investigation of foreign bribery. In light of the creation of the new ECP in late 2020, the lead examiners are also unable to assess whether the new ECP is taking proactive steps in relation to foreign bribery investigations. They therefore reiterate recommendation 4(d) and recommend that the new ECP use proactive steps in relation to foreign bribery investigations.

(i) Economic Crime Prosecutor Office

109. Article 53 Law 4745/2020 amended articles 33-36 CCP and created an Economic Crime Department in the Athens Appellate Prosecutor's Office. Article 100 Law 4745/2020 transferred jurisdiction over all pending cases before the old ECP and the PPACC to the new ECP. In addition, the article provides that all legislation that applied to the old ECP and the PPACC now applies to the new ECP.

110. The competences of the new ECP are provided for in article 35(1) CCP⁶⁷ to determine whether a major criminal offence has been committed. The major criminal offences referred to include tax, financial and any other related crimes, where such crimes are committed against the Greek State, the European Union, local authorities and legal entities governed by public law or seriously damage the national economy.

111. Although foreign bribery offences are not specifically listed under the competencies of the new ECP and active foreign bribery offences by Greek citizens or companies are not committed against the Greek State, during the on-site visit, the Greek authorities stated that it was well settled that any felony would be considered a crime committed against the Greek State and accordingly foreign bribery would be

⁶⁷ New article 35 was introduced by Law 4745/2020 and replaced the old article 35 in the CCP.

included. After the on-site visit, Greece clarified that, whilst foreign bribery is not specifically listed under the competencies of the new ECP, a “typical” foreign or domestic bribery investigation also includes money laundering and tax evasion and the new ECP would have jurisdiction. Greece states that the new ECP’s powers also apply to offences that are committed by Greek citizens anywhere within the Greek territory as well as those that are committed abroad.

112. During the on-site visit, the new ECP stated that it did not have any prosecutors specialised or trained in foreign bribery and that prosecutors cover all crimes within the competence of the new ECP. The crimes investigated typically include tax evasion, embezzlement, money laundering, fraud, bribery and corruption.

(ii) *Hellenic Police*

113. In Phase 3bis, the Working Group noted that the Economic Police Service (EPS), which is part of the Hellenic Police, has the mission to prevent, investigate and suppress financial crimes, namely those that have been committed against the interests of the public sector and the national economy or have the characteristics of organised crime (Phase 3bis, para. 83 footnote 27). However, at the time of the Phase 3bis, the jurisdiction of the EPS was legally unclear and just before the adoption of the report, the Greek authorities referred to article 33 CCP as the legal basis for prosecutors to use any police body to conduct a criminal investigation. At the time, the evaluation team was unable to discuss this provision with the on-site participants due to the late timing of the provision of the information (Phase 3bis para. 84).

114. In the Phase 3bis Written Follow-up, Greece stated that the competence of the EPS to investigate foreign bribery offences is set out in article 24(1) Law 4249/2014 and article 32 of PD 178/2014.⁶⁸ In the Phase 4 questionnaire, Greece stated that the Chief Prosecutor of the new ECP has the supervision, guidance and coordination of actions of the Hellenic Police, including the EPS, and this was confirmed during the on-site visit.

115. However, after the on-site visit, the Hellenic Police submitted that since Phase 3bis the EPS has only conducted two investigations, which involved domestic bribery but were primarily concerned with organised crime. In addition, the evaluation team notes that in the additional information provided by Greece the Internal Affairs Division of the Hellenic Police is primarily responsible for investigating domestic corruption. Accordingly, the evaluation team is unclear as to the exact roles of the EPS and Internal Affairs in the investigation of foreign bribery cases.

(iii) *The Financial and Economic Crime Unit (SDOE)*

116. Greece classifies the SDOE, part of the Ministry of Economy, as a national law enforcement agency that specialises in financial and economic crimes, other than customs and tax crimes, with competency to conduct parallel financial investigations. SDOE’s mission includes research, identification and the fight against economic offences of particular significance, such as corruption, fraud, money laundering, violations related to provisions, grants, illegal stocks trading and other financial transactions, as well as economic frauds against the interests of the Hellenic state and the EU regardless of the place of execution of the crime. SDOE can investigate both natural and legal persons and in fact is the agency responsible for sanctioning non-obligated (under AML Law) legal persons (see Part C.1(b) below for discussion on legal persons).

117. In Phase 4, the situation has not changed except it is now the new ECP that can instruct the SDOE to investigate matters. The Chief Prosecutor of the new ECP has the supervision, guidance and coordination of the actions of SDOE. In SDOE cases where there are indications of perpetration of a predicate offence the procedure of prosecution is activated by sending in a timely manner a relevant report

⁶⁸ This is a Presidential Decree and available at <https://www.kodiko.gr/nomothesia/document/356333/p.d.-178-2014>

to the competent prosecutor. In corruption cases, including foreign bribery cases, the new ECP would be informed. In significant cases, SDOE has the power to immediately freeze criminal assets. In cases of suspicion of money laundering or terrorist financing, SDOE sends a report to the Hellenic FIU for further investigation and the possible freezing of assets.

118. SDOE staff have the authority to access a wide range of information or data concerning or relating to the execution of their task and mission.⁶⁹ For example, SDOE has direct access to the Taxation Information System (TAXIS), and other systems that are the sources of tax and customs data of audited entities. SDOE investigators also have direct access to the “System of Registries of Bank Accounts and Accounts of Payments” that enables authenticated users the ability to submit requests for data of bank accounts. The users may ask for information about a specific person or entity, on the existence of a bank account and the current account balance and also have access to the bank account transactions.

119. SDOE cooperates at the international level with OLAF, Europol, Interpol and all overseas agencies with relevant competencies.

(iv) National Transparency Authority (NTA)

120. Since Phase 3bis Greece established the NTA in August 2019 under Law 4622/2019 on the Organisation, Operation and Transparency of the Government, Government Institutions and Central Government Administration. The key tasks of the NTA are provided in article 82(1) Law 4622/2019, namely (a) to enhance transparency, integrity and accountability in the action of government bodies, administrative authorities, state institutions, and public organizations, (b) to prevent, deter, detect, and respond to fraud and corruption in public and private bodies and organisations.

121. According to Greece, the establishment of the NTA gives an end to overlapping competences, coordination impediments, and fragmentation of audit bodies, while it aims at fostering integrity, developing integrated training and capacity building programmes, standardising audit methodologies, and restoring public trust. The NTA has also established a National Coordinating Body for Audit and Accountability (ESOEL), which is tasked with coordinating the fight against corruption (article 103 Law 4622/2019). At the time of Phase 4, 14 agencies attend the ESOEL, which is chaired by the Governor of the NTA, and take place once a month. The agencies include the EPS and SDOE.

122. The NTA, under article 97(1) Law 4622/2019, may carry out a preliminary examination upon a prosecutor’s order for cases where an inspection is carried out or has been carried out by the NTA. In this case the authorised officials are required to collect evidence to forward to the competent PPO on various crimes, including foreign bribery, if committed by officials of entities within the jurisdiction of the NTA. This is defined in article 83(1) and includes all the bodies and services of the general government, SOEs, private companies contracting or dealing with the public sector, private entities that carry out any economic activity that is regulated in any way by the state and concerns the provision of services or goods to citizens or businesses, or are active in areas of public interest.

123. At the time of Phase 4, the NTA had yet to conduct a foreign bribery investigation, either through its own initiative or under direction from the new ECP.

Commentary

The lead examiners welcome that Greece continues to assign primary responsibility for the investigation of foreign bribery cases to a single prosecutor’s office but recommend that Greece codifies this responsibility in the CCP. The lead examiners also welcome the establishment of the NTA.

⁶⁹ Following a relevant official order, not subjected to the restrictions of provisions on confidential information, being, however, obliged to comply with the provisions of confidentiality of article 26 of the Civil Service Code (article 30 Law 3296/2004 as amended by article 64 Law 4557/2018).

However, the lead examiners are concerned that once the new ECP decides there is enough evidence to charge an offence then the case is passed to the PPO as opposed to remaining with the new ECP. This could result in delays to cases, lack of priority for foreign bribery prosecutions, and duplication of efforts. The lead examiners, therefore, recommend that Greece ensure that sufficient resources are provided to the new ECP and the PPO to avoid these potential consequences.

(c) Conducting a foreign bribery investigation and prosecution

(i) Initiation and coordination of investigations

124. As mentioned above, in Phase 3bis, Greece's record of foreign bribery enforcement had visibly improved though concerns remained. Two specific concerns were identified, first that certain foreign bribery allegations had not been seriously investigated because of a lack of awareness of the foreign bribery offence in the enforcement community, judiciary and FIU. Second, the authorities had not proactively investigated certain foreign bribery allegations. Accordingly, the Working Group recommended that Greece take all necessary measures to ensure that it assesses credible allegations of foreign bribery and seriously investigates complaints of this crime (recommendation 4c). In Phase 3bis Written Follow-up, this recommendation was deemed fully implemented. In Phase 4, the law enforcement authorities, judiciary and Hellenic FIU panellists continue to be aware of the foreign bribery offence although it appears that the proactivity in investigations has declined, for example in cases involving MLA requests (see section 5 below).

125. Since Phase 3bis, there has only been a slight change to the procedure for conducting investigations (see below). In fact, article 100 Law 4745/2020 (the law that created the new ECP) specifies that all legislation that previously applied to the old ECP and the PPACC now applies to the new ECP.

126. Once a prosecutor becomes aware of an allegation of criminal conduct they are obliged to investigate unless a complaint or petition is not based on the law or is manifestly unfounded in substance or inadmissible. In this case, the prosecutor shall file (close) the matter and provide reasons to the appellate prosecutor. If the appellate prosecutor does not agree, they have the obligation to order a preliminary examination (article 43(3) CCP). The Prosecutors of the new ECP can also initiate an investigation *ex officio* or in response to a request of another public prosecutor, public services and the Hellenic Police. The new ECP also deals with investigations in response to complaints lodged by Greek citizens (there is an option for such complaints to be submitted anonymously).

127. The investigation begins in all cases with a preliminary examination, however, following the most recent amendments to the CCP in November 2021, this has to be completed within six months by the new ECP (article 35(4) CCP). If further time is required then the prosecutor must seek the consent of the Chief Prosecutor of the new ECP who can either grant the extension or transfer the investigation to another prosecutor. For foreign bribery cases allocated to the new ECP the preliminary examination is overseen by a Prosecutor of the Court of Appeals and the actual investigation is carried out by a Prosecutor of the Courts of First Instance. The prosecutor can direct general or special investigative officers as defined in article 31 CCP at other agencies to undertake investigations. For the purposes of foreign bribery allegations, this is likely to be the SDOE, Hellenic Police/EPS or the NTA or a combination of these agencies. Once the investigation is complete, and if the new ECP decides that there is sufficient evidence that a suspect has committed a crime that falls within their ambit, they refer the case to the PPO (see section below on prosecution noting prosecution in Greece is fairly limited in scope and to the formal court processes).

128. If the crime suspected is a felony then the PPO refers the case to an investigative judge who conducts the main investigation, often repeating the steps taken during the preliminary examination, and then refers the case back to the PPO. There are currently two foreign bribery cases with investigating

judges. During the on-site visit, the evaluation team had the opportunity to meet with an investigative judge. One issue they highlighted was the problem with obtaining translation of MLA responses and the delays that this causes in their investigations, which should be completed within eight months, unless additional time is required due to the complexity of the case (article 248(5) CCP).

129. At the time of the Phase 3bis, coordination of the law enforcement bodies over foreign bribery cases had not been resolved. In Phase 4, Greece reports that the Prosecutors at the new ECP take responsibility for coordinating and initiating investigations in relation to acts of corruption, and this includes foreign bribery. As mentioned above, and in a welcome development, the NTA has established the ESOEL, which is tasked with coordinating the fight against corruption, and this can include foreign bribery allegations.

Commentary

The lead examiners recommend that Greece ensure that investigative judges dealing with foreign bribery cases have the necessary resources, including translation services, to deal with them effectively and in a timely manner.

The lead examiners welcome the establishment of the ESOEL at the NTA and recommend that the Working Group follow up on (a) how the ESOEL operates in practice; and (b) the coordination between the prosecutors at the new ECP, the various investigative agencies and the PPO as new foreign bribery cases commence.

(ii) Investigative techniques

130. Under article 36 CCP,⁷⁰ the Prosecutors at the new ECP have been equipped with extensive powers for the investigation of crimes under their jurisdiction and are not subject to any secrecy measures. They may request any information from any authority and have access to any information (bank accounts, tax records, stock exchange etc.) provided that the principle of proportionality is complied with. Article 36 CCP also appears to give the new ECP access to telecommunication information (Law 2225/1994). In Phase 3bis, the lead examiners recommended that the Working Group follow up on Greece's capacity to investigate complex financial crimes, including large scale domestic corruption cases (follow up issue 15e). At the Written Follow-up, the Working Group agreed to continue to monitor this issue, however, due to the lack of cases it has not been possible to do this and therefore this needs to be continued to be monitored.

131. In Phase 3bis, the Working Group noted that some special investigative techniques had been made available for corruption offences following a recommendation from Phase 3. These included undercover investigations, lifting the confidentiality of communications and data recordings. However, in Phase 3bis, it was also noted that wiretapping was still unavailable in foreign bribery investigations although no recommendation was made or follow up issue raised at that time. In Phase 4 Greece has only provided one example of a foreign bribery case where a special investigative technique (lifting of bank secrecy) had been used and it is therefore not possible to fully assess the use of special investigative means in foreign bribery cases.

(iii) Statute of limitations

132. The rules on limitation periods have remained unchanged since Phase 3bis and an investigation must be completed within 5 years of the commission of a misdemeanour foreign bribery offence and within 15 years for a felony foreign bribery offence. However, the downgrading of the felony foreign bribery offence to a misdemeanour has negatively affected ongoing cases. In Phase 3bis, the Working Group was concerned that the five-year limitation period for misdemeanour foreign bribery offences may be too short, especially if MLA must be sought. The Working Group, therefore, reiterated a Phase 3 recommendation

⁷⁰ New article 36 was introduced by Law 4745/2020 and replaced the old article 36 CCP.

that Greece take steps to ensure that the limitation period for misdemeanour foreign bribery offences is sufficient to allow adequate investigation and prosecution at a minimum by allowing outstanding MLA requests to interrupt the limitation period (Phase 3bis recommendation 6). At the time of the Written Follow-up, this recommendation was considered not implemented and Greece has failed to implement this recommendation through the amendments to the CC adopted since 2019.

133. The concerns that led to the Working Group's recommendation in Phase 3, later reiterated in Phase 3bis, became even more urgent after the downgrading in June 2019 of the entire foreign bribery offence under article 236 CC to a misdemeanour. Due to the retroactive application of the most lenient law provision (see Part B.1(a) above), the limitation period applicable to virtually every case of foreign bribery committed between 2008 and November 2019 is five years for the investigation stage with the possibility of a suspension of no more than three years once it reaches court. Greece acknowledges that most foreign bribery cases have been time barred after the downgrading of article 236(2) CC from a felony to a misdemeanour. Prosecutors confirmed at the on-site visit that in all but one of the ongoing foreign bribery cases described in this report the foreign bribery allegations are probably time barred. Some of the cases are still ongoing, nonetheless, as prosecutors are assessing whether they can bring charges on other offences with longer limitation periods, such as money laundering.

134. However, Greece indicates that the current limitation period is more than sufficient to allow adequate investigation and prosecution of misdemeanour foreign bribery. It adds that a pending outgoing MLA request is not an appropriate ground to suspend the limitation period because investigations continue in Greece whilst these are answered. Greece further argues that cases that have been prosecuted as misdemeanours have not been time-barred and if it occurs, the involved prosecutors may undergo severe disciplinary or even criminal action. Greece finally indicates that its authorities give priority to investigate felony bribery allegations by specially designated investigating judges and allegations categorised as misdemeanours will be heard by the courts at the earliest opportunity.

135. During the on-site visit, Greek authorities unanimously stated that the five years' limitation period and three years' court suspension allows enough time to investigate and prosecute misdemeanour foreign bribery. After the on-site visit, Greece provided statistics indicating that from 2019 to October 2021 only two cases of bribery under article 236 CC were closed by prosecutorial authorities due to the expiry of the limitation period.

Commentary

The lead examiners regret that the foreign bribery allegations in all but one of the ongoing cases described in this report are probably time barred because of the downgrading of the foreign bribery offence in June 2019. However, they welcome the efforts of Greek prosecutors in continuing the investigations for these and other offences that are not time barred. Given the fact that Greek authorities showed confidence that the limitation period for misdemeanour foreign bribery is sufficient to properly investigate and prosecute the offence the lead examiners recommend that the Working Group convert Phase 3bis recommendation 6 into a follow-up issue on whether the limitation period for foreign bribery offences qualified as misdemeanours is sufficient to allow adequate investigation and prosecution, especially in cases with pending MLA requests.

(iv) Initiation of a prosecution

136. As discussed above, the new ECP may conduct investigations but does not prosecute, instead directing the PPO to do so. If the PPO decides that the crime is a misdemeanour (for example article 236(1) CC) they can charge the individual and the matter proceeds to prosecution in court. If the crime is a felony (for example article 236(2) CC) then the PPO refers the file to an investigative judge who conducts a main investigation (article 246 CCP). Once the investigative judge has completed their main investigation they send the file back to the PPO who assesses the findings. If the crime is still considered a felony, the PPO

sends the proposal to the Judicial Council, who decide whether the matter should go to prosecution in court or the matter be filed (closed) (article 308 CCP).

137. Unfortunately, during the on-site visit, the evaluation team did not have the opportunity to meet with Prosecutors of the First Instance at the PPO in charge of foreign bribery cases and therefore were unable to explore any relevant issues with them. Greece has not provided any other information on the PPO, for example the number of staff, financial resources or specialisation they may have including on foreign bribery.

(v) *Judicial awareness and specialisation*

138. During the on-site visit, the judges present did not have any experience of foreign bribery cases, including one judge with many years' experience. However, they were aware of the foreign bribery offence and the distinction between article 236(1) and 236(2) CC. One of the judges had been assigned a domestic bribery case with 22 defendants and 80 witnesses, which was being carefully managed but would take months to hear the case.

(vi) *Independence*

139. Foreign bribery investigations and prosecutions must conform to Article 5 of the Convention and not be influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of the natural or legal persons involved. Commentary 27 to the Convention further recognises the need to protect the independence of investigations and prosecutions by ensuring that investigative and prosecutorial discretion is exercised based on professional motives and is not subject to improper influence by concerns of a political nature.

Rules that govern appointment and dismissal of prosecutors

140. The independence of prosecutors is guaranteed in articles 87-91 of the Greek Constitution. Prosecutors are considered part of the judiciary, are appointed for life and can be dismissed only following a court decision resulting from a criminal conviction or a grave disciplinary breach. Promotions, assignments to posts, detachments, and transfers to another branch are decided by the Supreme Judicial Council, which is made up exclusively of judges and prosecutors. These rules also apply to the new ECP (article 33(1) CCP). The only prosecutor in Greece who is appointed by the government is the Chief Prosecutor of the Supreme Court. However, they must already serve at the Supreme Court.

141. Prosecutors may not receive instructions from the executive in criminal proceedings (article 27(1) CCP and article 26(3) of the Greek Constitution). An exception to this rule can be found in article 29 CCP, according to which the Minister of Justice with the agreement of the Cabinet of Ministers may postpone or suspend indefinitely criminal proceedings of political offences and offences in which the international relations of the State may be disturbed. However, as of 2019, this exception does not apply to cases of active and passive bribery, including foreign bribery. Greece stated that the amendment to article 29 CCP was necessary in order for Greece to comply with its international obligations, including under the Convention.

142. Prosecutors are linked by a hierarchical relationship and are required to follow instructions from their superiors. Article 24(4) Law 1756/1988, however, provides that "prosecutors remain independent in the performance of their duties and expression of their opinions, obeying only the law and their own consciences". The Supreme Court has interpreted this last provision to mean that in "forming their

judgment, prosecutors are completely independent of any instruction or opinion of its hierarchical superior".⁷¹

Commentary

The lead examiners commend Greece for amending article 29 CCP to expressly exempt foreign bribery cases from the decision of the Minister of Justice to postpone or suspend indefinitely criminal proceedings of offences in which the international relations of the State may be disturbed.

Threats to prosecutors' independence since Phase 3bis

143. The Working Group first expressed concerns about Greece's compliance with Article 5 of the Convention in the Phase 3bis Written Follow-up when it found that the country had unduly closed a foreign bribery investigation due to prohibited Article 5 considerations. However, the Greek authorities had reacted promptly, at that time, to reopen the case and the Working Group did not insist on the issue.⁷²

144. Since then, Greece's capacity to ensure that investigations and prosecutions are not subject to improper influence has been called into question in light of the ***Pharmaceutical company case***. The case created a sprawling scandal in Greece with passive bribery allegations against several high-ranking government officials. In addition, two chief PPACC prosecutors resigned or were dismissed in the course of three years. The evaluation team considers that it is important to explain the chronology and context in which these events unfolded, as this has affected perceptions regarding independence of anti-corruption proceedings in Greece.

- In March 2017, the chief PPACC prosecutor resigned alleging interference by the executive in the ***Pharmaceutical company case*** investigation. A new chief PPACC prosecutor was designated.⁷³
- In June 2019, the Deputy Prosecutor of the Supreme Court alleged that the same member of the executive who caused the former chief PPACC prosecutor to resign had been using the new chief PPACC prosecutor to smear political opponents by involving them in the ***Pharmaceutical company case*** investigation.⁷⁴
- In late 2019, soon after a change of government, a parliamentary committee started looking into the allegations, naming a former Deputy Minister of Justice as the main person behind the alleged interference. Allegations about abuse of power and use of fake evidence in the investigation also surfaced.⁷⁵
- In June 2020, one of Greece's top ranking government officials publicly accused the new chief PPACC prosecutor of abuse of power and threatened criminal action against her.⁷⁶ In July 2020, the chief PPACC prosecutor was formally charged for alleged abuse of power and breach of duty and the proceedings are ongoing.⁷⁷

⁷¹ Prosecutor's Office of the Supreme Court (2018), [The Public Prosecutor's Office](#).

⁷² Phase 3bis, case no. 1.

⁷³ OCCPR (March 2017), [Greek Corruption Prosecutor Quits over Pressure in Bribery Investigation](#); Global Investigations Review (March 2017), [Greece to investigate Novartis prosecutor resignation](#).

⁷⁴ Kathimerini (September 2019), [Prosecutor claims politician meddled in Novartis and other probes](#).

⁷⁵ Global Investigations Review (June 2020), [Alleged bribes, fake evidence and abuse of power at centre of Greek Novartis probe](#).

⁷⁶ CNN (June 2020), [Greek Minister: The anti-corruption prosecutor must go to jail](#).

⁷⁷ Naftemporiki (July 2020), [Top anti-corruption prosecutor now faces criminal charges over shambolic Novartis probe](#).

- In November 2020, Greece decided to reorganise the prosecution of corruption offences in the country and merged the PPACC into the new ECP (see analysis above in Part B.4). The same month, the chief PPACC prosecutor wrote to the OECD alleging continued interference by the executive in her work and criticising the “abolition” of the PPACC office.
- In December 2020, the Working Group discussed developments in Greece and decided to assess these issues in this expedited Phase 4 evaluation.

145. In Phase 4, Greece declined to comment on the relationship between prosecutors and political authorities in light of the **Pharmaceutical company case** which is ongoing. During the on-site visit, the Greek authorities argued that the merger of the PPACC into the new ECP office was in the pipeline for some time and was not linked to the **Pharmaceutical company case**. Moreover, in their view, the existing independence safeguards to protect prosecutors’ independence are adequate. Representatives of the legal profession and academia did not offer any comment on political motives for the merger but agreed that it made sense resource-wise and this opinion was shared also by civil society representatives. However, one journalist did point out that the criminal proceedings against the chief PPACC prosecutor were politically motivated.

146. In its monitoring work, the Working Group has expressed repeatedly concerns about the risk of interference in cases involving high-ranking government officials, and has noted that the protection of prosecutors from external pressure and influence in such cases is essential to ensuring that extraneous factors do not affect investigations. Prosecutors shall also perform their professional functions free from intimidation and harassment, including by the executive. In the case of Greece, the events in the **Pharmaceutical company case** may suggest an attempt by the executive to interfere with an ongoing investigation. At a minimum they have created a negative perception about the independence of anti-corruption proceedings in Greece and set an alarming precedent for any prosecutor who will be called in the future to investigate and prosecute politically sensitive corruption cases. Despite these credible concerns, the Greek authorities at the on-site visit could not explain or point to a mechanism that would prevent a similar situation from happening in a foreign bribery investigation, other than the independence safeguards that were already in place when the events in the **Pharmaceutical company case** took place.

Commentary

The lead examiners acknowledge that investigations in the Pharmaceutical company case and criminal proceedings against the former chief PPACC prosecutor are still ongoing and therefore alleged interference with an anti-corruption investigation has yet to be proven. However, they remain concerned that there are insufficient safeguards to protect foreign bribery proceedings being influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of natural or legal persons involved.

The lead examiners therefore recommend that Greece (a) raise awareness including through training by the National School of Judges on Article 5 of the Convention among prosecutors and investigative judges to ensure that foreign bribery investigations and prosecutions are not influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of the natural or legal persons involved; and (b) raise awareness including through guidelines on Article 5 of the Convention among relevant parts of the government to ensure that they refrain from contacting prosecutors and investigative judges about specific cases and that any actual or threatened action against them does not affect the effectiveness of foreign bribery investigations and prosecutions.

The lead examiners also recommend that the Working Group follow up on the Pharmaceutical company case and criminal proceedings against the former chief PPACC prosecutor.

(vii) *Resources*

147. In Phase 3bis, the Working Group found that foreign bribery investigations and prosecutions were given little priority by the PPACC, despite its limited jurisdiction covering only the most serious corruption crimes in Athens and Thessaloniki. As shown in the table below the new ECP office has extended subject matter jurisdiction covering all tax, financial crimes and any other related crimes, and territorial jurisdiction that extends to the entire country.

	PPACC (Law 4022/2011)	old ECP (Law 3943/2011)	new ECP (articles 33-35 CCP)
Subject matter jurisdiction	Most serious corruption crimes, including foreign bribery	Tax, financial crimes and any other related crimes, excluding most serious corruption and foreign bribery	Tax, financial crimes and any other related crimes, including foreign bribery
Territorial jurisdiction	Athens and Thessaloniki	Entire Greece	Entire Greece
Resources	2 prosecutors of the Court of Appeal and 8 prosecutors of the Court of First Instance (6 in Athens and 2 in Thessaloniki) 10 scientific investigators	1 full-time prosecutor of the Court of Appeal (and one substitute if required) and 8 prosecutors of the Court of First Instance (7 in Athens and 1 in Thessaloniki) 4 scientific investigators	4 full-time Prosecutors of Court of Appeal (with 4 substitutes if required) and 9 part-time Prosecutors of Courts of First Instance (7 in Athens and 2 in Thessaloniki). 13 scientific investigators

148. Following the on-site visit Greece provided the staffing levels for the new ECP. Overall, with the creation of the new ECP there has been an increase of one full-time Prosecutor of the Court of Appeal, but a decrease of seven First Instance Prosecutors and one scientific investigator. During the on-site visit, it was explained that the new ECP Prosecutors of Courts of First Instance are working part-time as they have other responsibilities, primarily cases that they were working on before being assigned to the new ECP.

149. In Phase 3bis, the Working Group was concerned that not enough priority was given to foreign bribery cases. With the merger of the PPACC's responsibilities into the new ECP and the new ECP's wider responsibilities and jurisdiction the priority for foreign bribery cases may diminish even further.

150. Also in Phase 3bis, the Working Group recommended that Greece ensure that the bodies responsible for investigating and prosecuting foreign bribery have sufficient human and technical resources, including providing PPACC with a case management system and the ability to track the status of a criminal case in real time (Phase 3bis recommendation 4(a)). It is too early to assess whether the new ECP is sufficiently resourced, particularly with the reduction in the number of prosecutors. Although the new ECP is funded by the State, there is no specific fund for the investigation of foreign bribery cases. However, SDOE and NTA appear to be sufficiently resourced with several hundred auditors each.

151. In relation to the part of the recommendation to provide a case management system to PPACC, Greece advises that the paper-based case management system used by the new ECP is considered adequate for the purposes of case management and security. In addition, Greece reports that work is in progress on the creation of a central case management system, which would allow all relevant bodies and stakeholders to access and share information and to track the status of a criminal case in real time. In addition, the new ECP plans to build a case management system that would be specific to foreign bribery cases but no timeframe has been provided for the implementation of these new case management systems.

Commentary

The lead examiners welcome the intention to create a central case management system and a specific case management system for the new ECP for foreign bribery cases.

However, noting there have been no concluded foreign bribery cases since Phase 3bis and in light of the recent establishment of the new ECP and the significant reduction of the number of Prosecutors who conduct investigations, the lead examiners are unable to assess whether recommendation 4(a) is implemented. They therefore consider that recommendation 4(a) remains only partially implemented. The lead examiners therefore reiterate the part of this recommendation that Greece ensures that the bodies responsible for investigating and prosecuting foreign bribery have sufficient human and technical resources.

(viii) Training

152. In Phase 3bis, the Working Group recommended that Greece intensify training to judges and law enforcement officials on the Convention and the foreign bribery offence, including by providing training on the practical aspects of foreign bribery investigations (recommendation 4e). At the Written Follow-up, this recommendation was deemed fully implemented. However, training is an ongoing requirement and in particular, especially when there have been institutional and personnel changes with the merger of the PPACC and the old ECP.

153. In the Phase 4 questionnaire, Greece states that the National School of Judges (NSJ) is responsible for training opportunities for prosecutors but did not provide any information on the training provided that relates specifically to foreign bribery since Phase 3bis.

154. Greece also reports that training and gaining expertise of personnel is a top priority for SDOE. SDOE officers attend courses, seminars and webinars relevant to money laundering investigations and the fight against corruption. These have been organised by CEPOL, the Greek National Centre for Public Administration and Local Government (EKDDA) and the NTA. SDOE staff also participate in EUROPOL's and other agencies' meetings in order to supplement their experience. In addition, SDOE organises internal training relevant to investigative areas that fall into SDOE's competences. According to Greece, based on its accumulated knowledge and experience, SDOE contributes significantly in the fight against corruption and money laundering.

155. The new ECP was not aware of the Working Group Informal Meetings of Law Enforcement Officials but when this was raised at the on-site, especially in the context of possibly assisting with outstanding MLA requests, there was a willingness to attend these meetings. A representative of the new ECP attended the meeting in November 2021.

156. Training of judges is provided for by the NSJ whose purpose includes the theoretical and practical training of probationary judges and also the continuous training of serving judges. The NSJ provided a seminar in 2021 for judges (and prosecutors) but it did not cover foreign bribery. However, in 2020 there was a three-day seminar for probationary prosecutors on the then recently implemented provisions of the CC, including article 235(5) CC and the bribery of an EU official. Trainings also include international judicial cooperation.

Commentary

The lead examiners recommend that training on foreign bribery investigations be provided to the prosecutors and investigators at the new ECP, SDOE and NTA. The lead examiners also welcome the willingness expressed by prosecutors from the new ECP at the on-site visit to engage more closely with the Law Enforcement Officials meeting and they recommend that Greece attend these meetings.

(d) Concluding a foreign bribery case

157. If a preliminary examination has been carried out and the prosecutor files (closes) the case, the PPO provides the reasons to an appellate prosecutor. If the appellate prosecutor does not agree, they can order a supplementary preliminary examination or charge the person (article 43(4) CCP). If an appellate prosecutor considers there is insufficient evidence to bring a case to the hearing by direct summons, they are required to submit a proposal to the Board of Appeals (article 43(2) CCP).

158. Cases can be reopened when new facts justify the re-examination of the case (article 43(6) CCP) but limitation periods (discussed above) will be a factor when considering this option.

159. Since Phase 3bis, a new provision in the CCP allows the prosecutor to abstain from prosecution in respect of misdemeanours punishable with up to three years' imprisonment (article 48 CCP). Provided there is sufficient evidence of guilt and with the consent from a Court of First Instance Judge, the prosecutor may abstain from prosecution and issue an order, if the offender gives their consent. It appears that this measure could be applicable in respect of active bribery of public officials (article 236(1) CC). Since the provision was introduced, Greece has confirmed that it has only been used on one occasion in relation to article 236 of the CC but not by the new ECP.

Commentary

The lead examiners recommend that the Working Group follow up as relevant on the reasons for the termination of foreign bribery cases as practice develops, including those cases where foreign bribery offences are time barred and other related offences are being considered.

5. Mutual legal assistance and extradition in foreign bribery cases

(a) Mutual legal assistance (MLA)

(i) Legal framework related to MLA

160. The principal bases for requesting and providing MLA in Greece are the CCP, multilateral and bilateral treaties that provide for MLA, and the European Investigation Order (for EU members).

161. Articles 458-461 CCP regulate the execution of incoming and outgoing MLA requests in the absence of a bilateral or multilateral treaty. Greece amended these articles by Law 4620/2019, including with a view to addressing some of the Phase 3bis recommendations on MLA (see analysis below).

162. Greece's treaty framework for MLA remains unchanged since Phase 3bis. In addition to the 1959 European Convention on Mutual Assistance in Criminal Matters and the 1985 Convention implementing the Schengen Agreement, Greece is a Party to other multilateral treaties (e.g. UNCAC and Council of Europe Criminal Law Convention on Corruption) that provide for mechanisms by which its authorities may request and provide MLA in corruption cases. Greece has also concluded a number of bilateral MLA treaties, including with non-Parties to the Convention.

163. More recently, Greece transposed with Law 4489/2017 the Directive 2014/41/EU on the European Investigation Order (EIO), which establishes a comprehensive system for obtaining evidence in cases with a cross-border dimension based on the principle of mutual recognition.

(ii) *Dual criminality*

164. According to Article 9(2) of the Convention, where a Party makes MLA conditional upon the existence of dual criminality, dual criminality shall be deemed to exist if the offence for which the assistance is sought is within the scope of the Convention. In Phase 3bis, the Working Group found that requests to Greece to provide MLA may need to meet the requirement of dual criminality in some circumstances.

165. For MLA requests made based on a treaty, whether dual criminality is required depends on the terms of the treaty. For MLA requests that are not based on a treaty or the EU Law, article 459(3) CCP requires prima facie dual criminality as a precondition for rendering assistance. According to this provision, the Minister of Justice, following a concurring opinion of the Judicial Council of the competent Court of Appeal, may refuse an incoming MLA request if the underlying offence is not extraditable. One condition for an extraditable offence is that the act constituting the crime is punishable in Greece and the requesting state by at least two years' imprisonment i.e. dual criminality (article 437(a) CCP).

166. Discussions with panellists at the Phase 4 on-site reveal that there is still some confusion about the application of article 459 CCP, which does not explicitly require that dual criminality be met in the context of MLA, but points to provisions relevant to extradition. On a more reassuring note, all panellists asserted that Greece has never refused to execute an MLA request due to the lack of dual criminality and that, in practice, authorities try to adopt a flexible approach with regard to the dual criminality requirement. MOJ representatives further stated that, if the offence for which the assistance is sought is within the scope of the Convention, they will apply directly Article 9(2) of the Convention, if the Convention is cited as a basis from the requesting state.

Commentary

The lead examiners recommend that the Working Group follow up to ensure that the dual criminality under article 459(3) CCP does not hamper Greece's capacity to provide prompt and effective legal assistance in cases of foreign bribery.

(iii) *Types of MLA available*

167. For treaty-based MLA requests, the terms of the treaty set out the types of MLA available. In the absence of a treaty, articles 458-461 CCP apply. In Phase 3 and 3bis, the Working Group expressed concerns that these articles cover a limited range of assistance and do not provide for special investigative techniques (e.g. wiretapping and covert surveillance), asset freezing or confiscation. The Working Group therefore recommended that Greece amend its legislation to provide explicitly for these types of assistance (Phase 3bis recommendation 7(a)). The Phase 3bis Written Follow-up found that Greece had not implemented the recommendation.

168. In 2019, Greece amended the CCP, including with a view to addressing the Phase 3bis recommendation. According to articles 458(1) and 459(1) CCP, the Greek authorities may request from and provide to foreign authorities for the examination of witnesses and defendants, seizure of evidence, on-site inspections, expert opinions and "*any other investigative acts provided for in the [CCP] and other special procedural provisions.*" Representatives of the Court of Appeal stated that the amended provisions cover special investigative techniques and the formation of joint investigative teams with foreign authorities.

Commentary

The lead examiners commend Greece for amending the CCP to provide for the full range of investigative techniques, including special investigative techniques, asset freezing or confiscation, as MLA. They consider that Phase 3bis recommendation 7(a) is fully implemented.

(iv) Procedure for executing MLA requests

169. The procedure for executing MLA requests remains complicated, although Greece has taken some steps since Phase 3bis to streamline it. According to article 459(1) CCP, once the Central Authority in the MOJ receives an MLA request, it directs it to the competent Prosecutor of the Court of Appeal who then seeks, through the President of the Court of First Instance, an investigative judge to execute it. After the investigative judge executes the MLA request, the requested assistance is transmitted to the foreign authority back through the same channel. According to MOJ representatives, the MFA may intervene in the process only when requested to facilitate communication with foreign authorities. However, requests to and from EU countries that are based on the Schengen Convention or an EIO are made directly between law enforcement authorities and do not follow the above procedure.

170. As noted in Phase 3bis, some of the authorities involved in the article 459(1) CCP process merely pass on the request without reviewing its content, whereas others performed functions not envisaged by the CCP. The Working Group therefore recommended that Greece streamline the process for executing MLA requests with a view to reducing delay in providing MLA (Phase 3bis recommendation 7(b)). The Phase 3bis Written Follow-up found that Greece had assigned exclusive jurisdiction to a Special Investigative Judge to execute all MLA requests in Athens where the vast majority of MLA requests are received by the country. In Phase 4, Greece states that the Special Investigative Judge is still in place (see also below Statistics and MLA in practice) but the evaluation team did not have the opportunity to meet with the Special Investigative Judge during the on-site visit to assess from the point of view of all relevant actors how effective the new system is in practice.

Commentary

The lead examiners are encouraged by the continuing presence of the Special Investigative Judge with exclusive jurisdiction to execute all MLA requests in Athens. However, they did not have the opportunity to meet with the Special Investigative Judge during the on-site visit to assess how effective the new system is in practice. In the absence of statistics, the lead examiners recommend that the Working Group continue to follow up to ensure that the procedure for executing MLA requests does not hamper Greece's capacity to provide prompt and effective legal assistance in cases of foreign bribery.

(v) Statistics and MLA in practice

171. Greece continues to not maintain statistics on MLA and the Working Group cannot assess once again Greece's capacity to provide prompt and effective legal assistance to other Parties to the Convention. The issue dates back to Phase 3 and was reiterated in Phase 3bis when the Working Group recommended that Greece maintain detailed statistics on MLA (Phase 3bis recommendation 8(iv)). In Phase 4, Greece asserts that there are no delays in the execution of MLA requests and submits that it has recently established an "Office for the Collection and Processing of Judicial Statistics" (JustStat) (article 358 Law 4700/2020) with the competence inter alia to collect statistics on MLA. However, it is not known when the office will become operational and, in the absence of relevant statistics, it is not possible for the Working Group to confirm Greece's statement about no delays in the execution of MLA requests. The survey of Working Group members on Greece's responsiveness to MLA requests did indicate concerns about delays, however, the sample size is very small and does not allow the Working Group to draw further conclusions on the issue.

172. Greece received MLA requests in three foreign bribery cases since Phase 3bis, all from non-Parties to the Convention. The first two requests (**Highway construction company** and **German submarines cases**) followed the article 459(1) CCP procedure and were executed by the Special Investigative Judge within eight months. The third request (**Cypriot Paphos sewerage waste treatment case**) was made directly between law enforcement authorities and was executed by the Special Investigative Judge within seven months. The response time for all three requests needs to take into account the volume of information requested and the investigative techniques employed (e.g. interception of communications and lifting of bank secrecy).

173. In terms of outgoing MLA requests in foreign bribery cases, discussions with panellists at the Phase 4 on-site reveal that the Greek authorities face considerable difficulties in obtaining MLA and that they could do more to pursue them and speed up their execution. For example, the MLA requests in the **Construction company** and **Lottery contract cases** had been outstanding for several years before Greece decided to close the cases due to the lack of evidence. Another MLA request in the **Greek intermediary case** has been pending for a couple of years but Greece has not considered contacting the foreign authorities via informal channels, for example, the Working Group's Informal Meeting of Law Enforcement Officials.

Commentary

The lead examiners regret that Greece has still not managed to set up a system to maintain statistics on MLA. They therefore reiterate the Phase 3 recommendation 8(iv) and recommend that Greece proceed urgently with maintaining detailed statistics on MLA requests, including the offence underlying requests, time required for execution, and nature of assistance sought.

The lead examiners acknowledge the difficulties that Greece faces in obtaining MLA in foreign bribery cases. They therefore recommend that Greece use all available means to secure MLA, in particular through contact with foreign authorities via informal channels and the Working Group's Informal Meetings of law enforcement officials.

(b) Extradition

(i) Framework related to extradition

174. Greece can seek and provide extradition in foreign bribery cases based on bilateral and multilateral treaties, the European Arrest Warrant (for EU members), and articles 436-457 CCP. Greece reports minimal changes to its extradition framework since Phase 3bis. In 2016, it concluded an extradition treaty with Canada and, in 2019, an EU agreement with Iceland and Norway on the surrender procedure for the purpose of prosecution or execution of sentence. Greece has also amended articles 436-457 CCP relevant to extradition by Law 4620/2019. However, these changes do not modify the findings of the Phase 3 and 3bis reports and the Working Group made no recommendations relevant to extradition in those evaluations.

175. Greece does not extradite its nationals but, according to the Phase 3bis report, it will prosecute them in Greece for the same crime based on the principle of *aut dedere aut judicare*. In the absence of an applicable treaty, the grounds for refusing extradition are stipulated in article 438 CCP and include, among others, political, military, and tax crimes, crimes for which death sentence is stipulated, suspicion that the requested person will be discriminated against on grounds of race, religion, political or nationality, and cases where the requested person was convicted in absentia without being summoned.

(ii) Extradition in practice

176. Greece does not maintain statistics on extradition and the Working Group cannot assess how extradition works in practice in foreign bribery cases. The survey of Working Group members did indicate concerns about the quality of Greece's extradition requests. However, as in the case of MLA, the sample size is very small and does not allow the Working Group to draw further conclusions on the issue.

C. Responsibility of legal persons

1. Scope of corporate liability for foreign bribery and related offences

177. Corporate liability for foreign bribery in Greece is non-criminal in nature and is foreseen in article 45 AML Law. Article 45 AML Law replaced article 51 Law 3691/2008 (the previous AML Law), which the Working Group considered at the time of the Phase 3bis Written Follow-up unenforceable – it required an ancillary ministerial decision in order to be enforced that was never issued – and Greece non-compliant with Article 2 of the Convention. In contrast, article 45 AML Law is self-executing.

178. Both AML Law and Law 3691/2008 were enacted for the prevention and suppression of money laundering and terrorist financing, and only secondarily, they regulate liability of legal persons. In Phase 3bis, Greece argued that the placement of the corporate liability provision under the previous AML Law would increase its visibility and effectiveness since the AML Law is well known and commonly applied.

179. In Phase 4, the Working Group considers that the placement of the corporate liability provision under the AML Law has failed to produce the intended results and continues to create confusion among relevant stakeholders with regard to the scope and application of corporate liability in Greece. Moreover, Greece's corporate liability framework remains fragmented and is difficult to enforce in practice. Indeed, since it was first enacted in 1998, Greece has sanctioned only one legal person for domestic bribery. The reasons for this limited enforcement against legal persons are manifold and systematic. As discussed in several of the following sections, Greece's corporate liability framework does not contain key standards of the 2009 Recommendation, restricts corporate liability to cases where the natural person who perpetrated the offence is prosecuted and convicted, and allocates competence for corporate proceedings to multiple authorities with no resources or expertise to conduct such proceedings.

Commentary

The lead examiners gravely regret that Greece does not have an effective legal framework for holding legal persons liable for foreign bribery or related offences. They therefore recommend that Greece urgently reform its legal framework and enact standalone legislation that establishes liability of legal persons for foreign bribery and related offences, and invite Greece to take into account the 2021 Recommendation in enacting these reforms.

(a) Elements of liability of legal persons requiring follow-up

(i) Bribery for the benefit or on behalf of a legal person

180. Under the previous regime, a legal person was liable for foreign bribery committed “for the benefit” of a legal person. In Phase 3bis, the Working Group expressed concerns that this criterion would require evidence of profit and could exclude indirect advantages, such as the advantage of a third party, and cases where the legal person benefited coincidentally. The Working Group therefore decided to follow up whether this criterion could hinder Greece's ability to hold legal person liable for foreign bribery.

181. Under the new article 45 AML Law, a legal person is liable for foreign bribery committed “for the benefit or on behalf” of a legal person. The new provision appears to introduce a less onerous criterion, which is adopted by many other Parties to the Convention. However, according to panellists at the on-site visit, there is no material distinction between bribery committed “for the benefit” or “on behalf of” a legal person. In the absence of relevant case law and practice, the Working Group cannot fully assess whether this change in the law addresses the Phase 3bis concerns.

(ii) *Corporate liability for bribery through intermediaries and related legal persons*

182. Annex I.C) to the 2009 Recommendation provides that member countries should ensure that a legal person cannot avoid responsibility by using intermediaries, including related legal persons, to bribe foreign public officials on its behalf. Article 45 AML Law does not expressly cover this situation. In Phase 3bis, Greece stated that it would be up to the courts to clarify the law and the Working Group decided to follow up the issue in future evaluations. During the Phase 4 on-site visit, panellists expressed the belief that it could be possible to sanction a legal person for bribery committed through intermediaries or related legal persons, albeit without providing a legal basis for their answer. In the absence of relevant case law and practice, the Working Group cannot yet assess whether article 45 AML Law covers bribery through intermediaries and related legal persons.

(iii) *Persons who can trigger liability of the legal person*

183. Corporate liability for foreign bribery arises under article 45 AML Law in two situations:

- (a) Under article 45(1), where the natural person who acts either individually or as part of an organ of the legal person *and* holds a managerial position in the legal person, or is an authorised representative thereof, or is authorised to make decisions on its behalf, or to exercise control of it, commits foreign bribery;
- (b) Under article 45(2), where due to the lack of supervision or control of a person who meets the criteria, set out in article 45(1), and enables foreign bribery to be committed.

184. The law does not expressly cover situations where a person in a managerial position “directs or authorises” a lower level employee to commit foreign bribery as required by Annex I.B) to the 2009 Recommendation. In Phase 3bis, Greece indicated that such cases would be covered considering that exercising control within the legal person encompasses situations of directing or authorising a lower level employee to commit foreign bribery. In the absence of relevant case law and practice, the Working Group cannot confirm this statement in Phase 4.

185. Another issue of concern for the Working Group is the lack of clarity on what amounts to adequate supervision and control to prevent bribery under article 45(2). The issue dates back to Phase 3, where the Working Group recommended that Greece provide guidance to clarify the issue (Phase 3 recommendation 3(b)). In Phase 3bis, Greece stated that its legal system does not permit the issuance of guidance on the interpretation of law after it is adopted and that it would be up to the courts to interpret and apply the law. The Working Group reiterated the recommendation proposing that Greece provide guidance or training to clarify the issue (Phase 3bis recommendation 3(a)). The recommendation was deemed again as not implemented by the Phase 3bis Written Follow-up. In Phase 4, Greece provided no information on steps taken to implement the recommendation, and discussion with panellists at the on-site, who were mostly unaware of the issue, could not clarify the situation. It thus remains unclear how the Greek authorities understand the notion of lack of supervision or control under article 45(2).

(iv) *Successor liability*

186. Article 45 AML Law does not provide for successor liability. Greece also does not provide information in Phase 4 as how the issue would be addressed in practice. The Working Group has looked

extensively at successor liability in Phase 4 evaluations and made recommendations to ensure that legal persons cannot avoid liability by reorganising or otherwise altering their identity or structure. The issue may be of particular interest in Greece where the economic situation in the past decade has forced mergers and acquisitions and restructuring of legal persons.⁷⁸

Commentary

The lead examiners note that, in the absence of relevant case law and practice and the uncertainty among the Greek authorities on how to enforce corporate liability for foreign bribery, most of the concerns expressed by the Working Group in Phase 3bis remain valid.

The lead examiners recommend that Greece as part of the reform to the liability of legal persons regime ensure (a) that legal persons cannot avoid responsibility by using intermediaries, including related legal persons, and other third parties to commit foreign bribery, (b) that liability of a legal person can be triggered where a person in a managerial position “directs or authorises” a lower level employee to commit foreign bribery, (c) it is clear what amounts to adequate supervision and control to prevent foreign bribery; (d) that the law does not require evidence of profit and does not exclude indirect advantages, such as the advantage of a third party, and cases where the legal person benefited coincidentally, and (e) that legal persons cannot avoid liability or sanctions for foreign bribery and related offences by restructuring, merging, being acquired, or otherwise altering their corporate identity.

(v) Autonomous liability of legal persons

187. Concerns about the non-autonomous liability of legal persons in Greece are not new. Parties to the Convention are required to ensure that the conviction or prosecution of a natural person is not a pre-condition to the liability of a legal person for foreign bribery (2009 Recommendation Annex I.B). In Phase 3bis, the Working Group found that whereas article 45(6) AML Law provides that the application of the liability of legal person be independent from any civil, disciplinary or criminal liability of the natural persons who committed the crime, in practice, the imposition of sanctions against legal persons in Greece was contingent on the prosecution of a natural person.⁷⁹ It therefore recommended that Greece rectify this issue (recommendation 3(b)) but the Phase 3bis Written Follow-up found that Greece had not implemented the recommendation.

188. In its responses to the Phase 4 questionnaire, Greece did not provide any further information to address the Working Group’s concerns but simply reiterated article 45(6) AML Law. Unfortunately, in July 2021, Greece amended article 45(1) AML Law (by article 10 Law 4816/2021) to add that the imposition of sanctions against legal persons requires an irrevocable conviction of a natural person. Greece did not inform the evaluation team of this amendment either at the time of its enactment or during the on-site visit and therefore the evaluation team was unable to explore this amendment with the panellists during the visit. In any event, panellists could not envisage a scenario where a legal person could be sanctioned in the absence of a conviction of a natural person. In the only case to date, where a legal person was sanctioned for benefitting from domestic bribery, the vice-president and general manager of the legal

⁷⁸ OECD (2011), [OECD Economic Surveys: Greece 2011](#), paras 57, 71, 94 and 142.

⁷⁹ This was mainly due to article 45(7) AML Law, which provides that “...the prosecution shall promptly notify the authority competent to impose penalties on legal persons of the commencement of criminal proceedings where a legal person is involved and shall send them a copy of the relevant case file”. Irrespective of whether article 45(7) imposes a requirement of prior prosecution, there are credible concerns that the notification system does not always work, as there has only been one such notification since the enactment of the law. Indeed, prosecutors at the Phase 4 on-site visit were clear that they do not have competence over the administrative proceedings against legal persons and therefore would not envisage notifying another authority of the criminal proceedings that they conduct against a natural person.

person had already been convicted and the prosecution had then sent a copy of the conviction to SDOE to impose sanctions against the legal person.

189. When the evaluation team subsequently raised the amendment to article 45(1) AML Law with Greece, Greece explained that the amendment applies only to cases where the natural person instigates or aids and abets the commission of the crime (i.e. not the principal offender) and that, in any case, the amendment cannot override the general rule under article 45(6) AML Law (i.e. the independent liability of legal persons). However, Greece did not provide any supporting evidence for its explanation, which is also not supported by a textual interpretation of the law. In fact, the amendment seems to codify well established practice, confirmed during the on-site visit, and already identified as a problem in Phase 3bis.

Commentary

The lead examiners are deeply concerned by the recent amendment to article 45(1) AML Law, which appears to make the irrevocable conviction of a natural person a pre-condition to the liability and sanctioning of a legal person. The amendment is in direct contradiction to Phase 3bis recommendation 3(b) and the then 2009 Recommendation Annex I.B (which is now superseded by the 2021 Recommendation).

The lead examiners are therefore seriously concerned that liability of legal persons in Greece is not autonomous in nature. They recommend that Greece urgently reverse the recent amendment and further clarify its legislation and practice to ensure that liability of legal persons is not restricted to cases where the natural person who perpetrated the offence is prosecuted or convicted.

(b) Proceedings against legal persons

(i) Jurisdiction to commence proceedings against legal persons

190. Article 45 AML Law does not specify the circumstances under which Greek authorities will have jurisdiction to proceed against a legal person for foreign bribery. Since Phase 2, Greece has stated that the Greek laws would apply to all legal persons that have a registered office or an “effective seat” in Greece. An effective seat is the place where a legal person carries out its management, unless otherwise provided in the deed of constitution or the articles of incorporation (article 64 of the Civil Code). However, as noted in Phase 3bis, the jurisprudence on this matter has been inconsistent.

191. In Phase 3bis, Greece further stated, albeit without supporting law or jurisprudence, that corporate liability would apply to a foreign subsidiary whose parent company is located in Greece if there is “sufficient connection” between the subsidiary and its parent. Such a sufficient connection would exist if, for instance, a majority of the subsidiary’s directors are appointed by the parent company, the accounts of both companies are consolidated, and important decisions are taken by or in the parent company.

192. In Phase 4, Greece has not provided any new information on the issue of jurisdiction. In the absence of relevant case law and practice, the Working Group cannot yet assess whether the effective seat theory provides a sufficiently broad jurisdictional base to impose liability against legal persons, including where the legal person uses foreign subsidiaries to bribe on its behalf abroad.

Commentary

The lead examiners remain concerned that Greece’s legal framework is not clear with regard to the issue of jurisdiction in proceedings against legal persons. They therefore recommend that Greece clarify the issue and provide for an effective jurisdictional basis to commence such proceedings for foreign bribery, including where the legal person uses intermediaries, including related legal persons and other third parties to bribe on its behalf abroad.

(ii) Multiplicity of competent authorities for proceedings against legal persons

193. The AML Law provides for two categories of legal persons: “obligated” and “non-obligated” legal persons. Under article 45(3) the competent authority to impose sanctions:

(a) Against “obligated” legal persons is the competent supervisory authority. Article 5(1) provides for ten categories of obligated legal persons (e.g. financial, credit and insurance institutions) and article 6(1) specifies the competent supervisory authority for each category. For example, the Bank of Greece is the competent supervisory authority for financial institutions, while the Hellenic Capital Markets Commission (HCMC) is the competent supervisory authority for portfolio investment companies and mutual fund management companies.

(b) Against “non-obligated” legal persons is SDOE.

194. While this distinction between “obligated” and “non-obligated” legal persons may make sense for AML purposes, it becomes problematic when it comes to conducting corporate proceedings for bribery and other economic offences. In practice, it means that each competent authority must have adequate resources and expertise to conduct such proceedings, including all necessary investigation powers, ensure that the collected evidence is properly assessed and used, and finally that any sanction against the legal person is enforceable. As discussed below, this does not seem to be currently the case for any of the competent authorities under article 45(3), except perhaps for SDOE.

195. Moreover, discussions with representatives of the competent authorities at the on-site visit cast serious doubts on the operability of the system. HCMC representatives were categorical that they do not have competence to investigate and impose sanctions against legal persons for bribery, even though this is expressly provided by the law. Representatives of the Bank of Greece acknowledged their competence but stated that they have never exercised it in practice as they had not come across a case for which the conditions for the application of article 45 were met. More alarmingly, SDOE representatives could not clarify key features of the corporate liability framework despite the fact that SDOE has recently concluded the first ever case in Greece against a legal person for domestic bribery. All in all, both the Bank of Greece and SDOE seem to perceive that their role under the AML is limited to sanctioning rather than to conducting actual investigations against legal persons.

Commentary

The lead examiners are seriously concerned about the multiplicity of authorities for proceedings against legal persons in Greece. They consider that the current system is not operable and could hinder Greece’s ability to hold legal persons liable for foreign bribery. They therefore recommend that Greece urgently amend its legislation to assign competence for foreign bribery proceedings against all legal persons, whether obligated or non-obligated, to an appropriate authority with the necessary resources and powers to conduct such proceedings.

(iii) Conduct of proceedings against legal persons

196. The AML Law does not specify how the competent authorities would conduct proceedings against a legal person once they receive a notification from a prosecutor about criminal proceedings. In Phase 3bis, Greece envisaged two possible scenarios. First, a prosecutor would oversee one of the competent authorities in the investigation of the legal person, even though prosecutors in Greece have no power over administrative proceedings. Another more likely scenario was that the conduct of investigations would be left exclusively to the competent authorities. The Working Group recommended that Greece clarify the issue (recommendation 3(c)) but the Phase 3bis Written Follow-up found that the recommendation was not implemented. Discussions with panellists at the Phase 4 on-site visit confirmed that prosecutors do not oversee proceedings against legal persons, which are conducted exclusively by the competent authorities under article 45(3) AML Law.

197. Article 45 does also not provide for the investigative tools and powers that are available in proceedings against legal persons. SDOE representatives argued at the on-site visit that they could employ all investigative tools and powers that they normally use in proceedings against natural persons e.g. interrogation, access to bank accounts and tax information. However, such a position is doubtful given that these investigative tools and powers require an order or oversight by the competent prosecutor and, as was confirmed during the on-site visit, prosecutors do not oversee proceedings against legal persons. After the on-site visit, SDOE clarified that, at least, for access to legal person's premises and documents the order or oversight by a prosecutor is not necessary (article 30(5) Law 3296/2004). None of these tools and powers were used in the recently concluded case against a legal person for domestic bribery. HCMC and Bank of Greece representatives clarified that they do not have similar investigative tools and powers but, in the case of the Bank of Greece, they stated that they could conduct an audit of the legal person. The Working Group notes with concern this disparity in powers between these three competent authorities.

Commentary

The lead examiners recommend that Greece ensure that the necessary range of investigative tools and powers becomes available in all investigations and proceedings against legal persons.

(iv) Independence of proceedings against legal persons

198. In Phase 3bis, the Working Group voiced serious concerns about the susceptibility of proceedings against legal persons to political influence. Article 2 of the Convention allows Parties to implement a system of corporate liability that is criminal, civil or administrative in nature. However, regardless of the nature of the system, Article 5 of the Convention requires that proceedings against legal persons be independent of political influence. The system in Greece falls short of this threshold because proceedings against legal persons do not enjoy the same safeguards of independence and due process as proceedings against natural persons and because of the nature of the liability of legal persons, the principle of mandatory prosecution also does not apply to them. Moreover, the authorities competent to conduct such proceedings and impose sanctions are part of the executive. For comparison, most other Parties to the Convention with civil or administrative corporate liability regimes have effectively assigned the responsibility to oversee and/or conduct corporate proceedings to prosecutors and the determination of corporate sanctions to courts.

199. Since Phase 3bis, Greece has implemented some improvements with a view to improving the independence and due process of proceedings against legal persons. For example, the Minister of Justice no longer decides about the sanctions against "non-obligated" legal persons and this decision has been assigned to the Head of the Operational Directorate of SDOE. According to the Greek authorities, the Operational Directorate of SDOE enjoys some functional independence against the supervising Minister. The Bank of Greece and the HCMC continue to decide sanctions for "obligated" legal persons. Greece also reports that sanctions against legal persons are based on a reasoned decision, that no sanctions are imposed without a prior summons of the legal representatives of the legal person to provide explanations, and that an appeal procedure against the administrative decision imposing the sanctions has been formalised (Code of Administrative Procedure). Despite these improvements, it is evident that corporate proceedings in Greece would benefit from further safeguards of independence that would ensure that political or other considerations do not interfere with the conduct of proceedings and the effective sanctioning of a legal person.

Commentary

The lead examiners remain concerned that there are insufficient safeguards to protect proceedings against legal persons in Greece being influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of natural or legal persons involved. They therefore recommend that Greece implement safeguards to ensure that

proceedings against legal persons for foreign bribery are not affected by the factors described in Article 5 of the Convention.

2. Enforcement of corporate liability for foreign bribery and related offences

200. As noted above, to date, Greece has sanctioned only one legal person for domestic bribery. Greece reports no sanctions for foreign bribery and related offences i.e. money laundering and false accounting. This lack of enforcement is not due to a shortage of cases. On the contrary, high profile corruption scandals over the past two decades involving legal persons (e.g. **Siemens** and **Pharmaceutical company cases**) highlight that Greek authorities are not familiar with the corporate liability regime. Because of this unfamiliarity, priority is given to the investigation and prosecution of the natural persons involved in the corrupt activity. The sparse application of corporate liability in Greece further highlights a lack of awareness of the fact that it can serve as a highly effective tool in the fight against foreign bribery.

Commentary

The lead examiners are concerned that no legal persons have ever been sanctioned for foreign bribery and related offences. They recommend that Greece: (a) urgently draw to the attention of its authorities the importance of taking proceedings against legal persons for foreign bribery, including by strengthening training programmes on the topic, and (b) proactively pursue proceedings against legal persons for foreign bribery and related offences.

3. Sanctions available for legal persons for foreign bribery

(a) Monetary sanctions

201. The previous corporate liability regime identified different levels of sanctions depending on the characterisation of the legal person as:

- (a) "Obligated" (EUR 50 000 to 5 million; and EUR 10 000 to 1 million if liability resulted from the legal person's management's failure to exercise supervision or control); and
- (b) "Non-obligated" (EUR 20 000 to 2 million; and EUR 5 000 to 500 000 if liability resulted from the legal person's management's failure to exercise supervision or control).

202. In Phase 3bis, the Working Group expressed concerns that the available sanctions against legal persons were not effective, proportionate or dissuasive because first, the maximum sanctions were insufficient and disproportionate with the bribes and benefits frequently seen in foreign bribery cases, and second, there was no rationale for differentiating between "obligated" and "non-obligated" legal persons for the purpose of sanctioning foreign bribery. It recommended that Greece amend its legislation so that the sanctions against "non-obligated" legal persons are equivalent to those for "obligated" legal persons (recommendation 5(b)) and substantially increase the maximum fines for foreign bribery resulting from the failure to exercise supervision or control (recommendation 5(c)). The Phase 3bis Written Follow-up found that Greece had not implemented these recommendations.

203. Article 45(1)(a) AML Law does not now differentiate between "obligated" and "non-obligated" legal persons for the purpose of sanctioning foreign bribery. In addition the maximum level of fines has increased so all legal persons are now punishable by monetary sanctions of EUR 50 000 to 10 million unless the liability results from the legal person's management's failure to exercise supervision or control, the legal person is punishable by monetary sanctions of EUR 10 000 to 5 million (article 45(2)(a)). In both cases, the law clarifies that the monetary sanctions shall be at least twice the amount of the benefit obtained from the offence. However, if the benefit cannot be determined monetary sanctions are capped at EUR 1 million,

which appears low to be effective, proportionate or dissuasive. In the recently concluded case against a legal person for domestic bribery, Greece imposed a monetary sanction of EUR 1 million because the benefit could not be determined. Unfortunately, Greece could not share more information about the case as it is under appeal.

Commentary

The lead examiners welcome the amendments to the corporate liability legislation, which have streamlined and increased monetary sanctions against legal persons. However, they are concerned that where the benefit cannot be determined the monetary sanction is capped at EUR 1 million, which appears too low to be effective, proportionate or dissuasive. They therefore recommend that Greece increase this capped amount and that the Working Group follow up, as case law and practice develop, to ensure that sanctions imposed in practice are effective, proportionate or dissuasive.

The lead examiners further note that in the only case to date, where a legal person was sanctioned for benefitting from domestic bribery, the details about the case and the sanctions imposed have not been made public. They therefore recommend that Greece publish promptly, and in conformity with the applicable rules, as much information as possible about the sanctions imposed against legal persons, for example the underlying facts of the case, reasons for the choice of sanctions, the legal persons sanctioned (anonymised if necessary), and the actual sanctions imposed.

(b) Additional sanctions

204. Article 45(1) AML Law provides for additional administrative sanctions against legal persons. These include:

- (a) permanent, or temporary for a period of one month to two years, revocation or suspension of the operation permit or prohibition from exercising business activities, or dissolution of the legal person and liquidation;
- (b) prohibition from exercising specific business activities or establishing branches or increasing the capital, for the same time period; and
- (c) permanent, or temporary for the same time period, disqualification from public benefits, aid, subsidies, awards of project and service contracts, public procurement, advertising and tenders organised by the State or by legal entities of the public sector.

205. These additional administrative sanctions seem to overlap with other laws on debarment from public procurement. In terms of their application in practice, Greece provides no information whether it considered imposing additional administrative sanctions in the recently concluded case against a legal person for domestic bribery.

(c) Calculation of sanctions

206. Article 45(4) AML Law has also expanded the factors that the competent authorities should take into account in determining the nature and the amount of sanctions against a legal person. These include: (a) the gravity and the duration of the offence; (b) the level of responsibility of the legal person; (c) the financial standing of the legal person; (d) the amount of the illicit revenue or any benefit obtained; (e) the damage caused to third parties due to the offence; (f) the actions of the legal person after the commission of the violation; (g) any relapse on the part of the legal person. The law does not provide for the existence of internal controls, ethics and compliance programmes or measures to prevent and detect foreign bribery to be taken into account in determining the nature and amount of sanctions against legal persons.

Commentary

The lead examiners welcome the expansion of factors under article 45(4) AML Law, which could support the Greek authorities in determining the nature and amount of sanctions against a legal person. They recommend that the Working Group follow up on their application in practice.

The lead examiners invite Greece to take into account the internal controls, ethics, and compliance programmes or measures in the calculation of sanctions under the new law, in accordance with the 2021 Recommendation XXIII.D.

(d) Confiscation against legal persons

207. In Phase 3bis, the Working Group expressed concerns that confiscation might not be available against legal persons due to the lack of a provision under the previous AML Law in this respect. At that time, Greece argued that article 46(1) AML Law was applicable because it allowed for confiscation against a third person, which included also legal persons. However, no supporting case law was provided at the time. The Working Group therefore decided to follow up on the issue in future evaluations.

208. In Phase 4, Greece indicates that confiscation against legal persons is now possible under article 40 AML Law. The provision states that the direct and indirect proceeds of crime as well as the instruments used or intended to be used for the crime, are compulsorily confiscated by order of the criminal court that convicts the natural person. Confiscation is therefore conditioned on a prior conviction of a natural person and does not apply directly to legal persons, but only in relation to offences committed for their benefit or on their behalf. Moreover, it is doubtful that confiscation could be imposed at all against a legal person since criminal courts in Greece have no powers over legal persons.

209. Article 40 AML Law further states that confiscation can be imposed even if the proceeds and instruments belong to a third party, *including where the third party is a legal person*, provided that the third party was aware of the crime at the time of their acquisition. The knowledge of the third party must be specifically justified in the court decision. When the third party is a legal person, the court examines whether any natural person who has the power to represent the legal person, or is authorised to make decisions, or exercises control, or actually performs these tasks had the required knowledge about the origin of the proceeds and instruments. Again, this provision only addresses confiscation against legal persons indirectly and requires that a criminal conviction and confiscation against a natural person have been ordered, which then could be imposed against a legal person as a third party. The Working Group concerns from Phase 3bis therefore remain valid.

Commentary

The lead examiners are concerned that confiscation directly against legal persons is not possible in Greece. They recommend that Greece introduce legislation to enable confiscation of the bribe and proceeds of bribery, or monetary sanctions of comparable effect, directly against legal persons and without prior conviction of a natural person.

4. Engagement with the private sector

(a) Awareness raising

210. There is a general lack of awareness of the corporate liability framework among the Greek private sector. The vast majority of companies that attended the on-site visit were not aware of article 45 AML Law, while those that were, thought that it covers money laundering and not bribery offences. They were also little to not concerned about the threat of being sanctioned for foreign bribery by the Greek authorities. This is particularly worrying because the attending companies were some of the largest in Greece, with

export oriented international presence. Business organisations concurred that there is no credible threat of enforcement against legal persons in Greece.

211. However, Greece has recently taken a more active approach in engaging with the private sector and raising awareness of the foreign bribery offence. In July 2021, the NTA and the MFA co-organised a webinar on the importance of transparency in international business transactions, which discussed among other things, the Greek and international legal framework against foreign bribery and the role of the private sector in ensuring a level playing field. In preparation of the webinar, the NTA also developed promotional material to raise further awareness on the topic among the private sector. The NTA has also launched a series of webinars to completed by July 2022 that aim to address the fight against corruption in the private sector and raise awareness of fighting corruption as a pillar of corporate social responsibility, anti-bribery compliance and protection of whistleblowers.

(b) Corporate governance and compliance

212. The Greek companies that participated in the on-site visit appeared to have robust anti-corruption compliance programmes and be well aware of their exposure to foreign bribery risks. However, as mentioned above, these companies are some of the largest in Greece and, in most cases, exposed to robust foreign bribery laws in other Working Group members. Indeed, business organisations noted that anti-corruption compliance programmes remain more relevant for larger companies rather than SMEs, an opinion shared also by the representatives of the accounting and auditing profession.

213. Greece's recent engagement with the private sector has also been targeting anti-corruption compliance. In addition to the webinars mentioned above, the MFA has started issuing annual "doing business" reports with information on the market conditions, including the risk of corruption, in countries. Greek companies may also register via the MFA online portal to receive tailored newsletters about the business climate in the countries of their interest. These initiatives could help Greek companies better understand their exposure to foreign bribery risks. Despite the concerns above in relation to the detection and reporting of foreign bribery by diplomatic missions, some companies at the on-site visit highlighted the help that diplomatic missions abroad provided when they were confronted with instances of bribe solicitation.

Commentary

The lead examiners are seriously concerned by the apparent lack of awareness among the private sector of the corporate liability framework and the sentiment that there is no credible threat of enforcement against legal persons in Greece. However, the lead examiners are encouraged that large Greek companies appear to have robust anti-corruption compliance programmes and are well aware of their exposure to foreign bribery risks. They also welcome Greece's recent decision to engage more actively with the private sector in both raising awareness and promoting anti-corruption compliance.

The lead examiners therefore recommend that Greece continue to (a) take measures to raise awareness on the corporate liability framework among business associations and companies, and (b) promote the development and implementation of anti-corruption internal controls, ethics and compliance programmes by the private sector, in particular SMEs that are concerned with international business transactions.

D. Other issues

1. Tax measures for combating foreign bribery

214. The Independent Authority for Public Revenue (AADE) is the authority responsible for the implementation of tax laws and regulations in Greece. In Phase 3bis, Greece received three tax related recommendations (recommendations 11(a) to (c)) and two follow-up issues (both numbered 15(f)). At the time of the Written Follow-up, the Working Group considered recommendation 11(a) fully implemented, 11(b) not implemented, and 11(c) not applicable. The Working Group also decided to continue to monitor the follow-up issues.

(a) Non-tax deductibility of bribes and post-conviction enforcement

215. In Phase 3bis, the Working Group concluded that Greece had not implemented a written policy of re-examining the tax returns of all individuals and companies that had engaged in bribery. Additionally, Greek authorities affirmed at the Phase 3bis on-site visit that tax auditors would re-audit smaller companies and natural persons that have been convicted for bribery. However, it was unclear whether larger companies were excluded from this practice. The Working Group therefore decided to follow up whether Greece routinely re-examines the tax returns of all individuals and companies that have engaged in bribery (follow-up issue 15(g)). At the time of the Written Follow-up, the Working Group agreed to continue to monitor this issue.

216. In Phase 4 Greece still does not routinely re-examine the tax returns of all individuals and companies that have been convicted of bribery. During the on-site visit, Greek authorities stated that there is no written policy of re-examining the tax returns of all individuals and companies convicted of bribery. After the on-site visit, Greece indicated that since 2015 AADE has re-audited only 16 tax returns after bribery convictions. However, in the same period, Greece reports 122 convictions for domestic bribery under article 236 CC. Hence, Greece has re-audited less than 15% of tax returns of the total of convictions in the same period.

(b) Tax treatment of sanctions and confiscation imposed on legal persons

217. After the on-site visit, Greece indicated that sanctions and confiscation imposed on legal persons are considered non-deductible business expenses. Article 23(e) of the Income Tax Code (Law 4172/2014) considers as non-deductible business expenses, “fines and financial penalties, including surcharges imposed due to breach of contractual obligations of companies or violations of law”. A decision of the Ministry of Finance further clarifies the scope of this provision.⁸⁰ It seems, therefore, that Article 23(e) of the Income Tax Code is broad enough to include sanctions and confiscation imposed on legal persons for foreign bribery.

⁸⁰ Ministry of Finance. POL.1113 / 2.6.2015 Notification of the provisions of articles 22, 22A and 23 Law 4172/2013 (Government Gazette 167A).

(c) Detection, reporting, and awareness raising of foreign bribery by tax authorities

218. To date, no cases of suspected foreign bribery have been referred by AADE to law enforcement authorities. In Phase 3bis, the Working Group was concerned that Greek tax examiners might not routinely look for bribery in every tax examination. The Working Group, therefore, recommended that Greece “ensure that its tax authorities include bribery in their risk assessments and audits including by incorporating the [OECD Awareness] Handbook into the tax authorities’ tax audit manual” (recommendation 11(b)). At the time of the Written Follow-up, Greece stated that the OECD Handbook had been incorporated in a risk assessment guide and made available by the Ministry of Finance but the Working Group considered that this recommendation was not implemented.

219. Since Phase 3bis, AADE reporting obligations remain unchanged. As with all public officials, they must report crime, including suspected bribery detected during tax examinations, to law enforcement authorities. During the on-site visit, AADE confirmed that they would promptly report foreign bribery suspicions either to ESOEL or directly to the PPO. However, Greece has not provided the evaluation team with any information regarding the provision of guidance or training to facilitate reporting by tax authorities of suspicions of foreign bribery arising out of the performance of their duties, to the appropriate law enforcement authorities, presumably the new ECP.

220. After the on-site visit, Greece informed the evaluation team that AADE has formulated an Anti-Corruption Strategy, which aims to strengthen transparency, integrity, fairness and honesty in its services through the prevention and combating of corruption. It was not possible to discuss this strategy during the on-site visit and it is not clear if this strategy addresses foreign bribery related issues.

(d) Cooperation between tax and law enforcement authorities, both domestically and abroad

221. In Phase 3bis, the Working Group decided to follow up on whether “Greek tax authorities can spontaneously provide information covered by tax secrecy that relates to foreign bribery” (follow-up issue 15(f)). This concern arose out of the Tax Procedure law (Law 4172/2013), which states that tax authorities may provide confidential tax information to law enforcement, judicial authorities, and the FIU in cases involving fraud on the State, tax evasion, and other tax crime. It was not clear at the time of the Phase 3bis evaluation whether foreign bribery was included in this provision. During the on-site visit, Greek authorities clarified that the relevant law enforcement authorities (the new ECP, SDOE, and EPS) have direct access to some limited tax information. However, full access to taxpayer’s information would require the authorisation of the Director of AADE.

222. On cooperation with foreign authorities, Greece reports that since Phase 3bis it has signed only one double tax convention, with Singapore. This document allows the use of tax information for non-tax purposes on the basis of article 26 of the OECD Model Tax Convention. Greece has also signed two bilateral agreements with the US on automatic exchange – in relation to financial accounts information. Greece is a Party to the Convention on Mutual Administrative Assistance in Tax Matters and a signatory to the Multilateral Competent Authority Agreements on Automatic Exchange of Financial Account Information and the Exchange of Country-by-Country Reports.

Commentary

The lead examiners welcome improvements in cooperation between tax authorities and law enforcement authorities in Greece. They are, however, concerned that Greek tax authorities have not detected any foreign bribery cases to date. They are also concerned with the absence of a written framework to ensure the non-deductibility of bribes.

The lead examiners, therefore, recommend that Greece ensures that when natural or legal persons are convicted or sanctioned for foreign bribery they proactively enforce the non-tax deductibility

of bribe payments, including by ensuring that the prosecuting or sanctioning authorities systematically share information with AADE in relation to foreign bribery convictions or sanctions, and AADE systematically re-examine tax returns of natural or legal persons convicted or sanctioned for foreign bribery for the relevant years to verify whether bribes have been deducted.

They also recommend that Greece provide regular training to tax auditors on the detection of bribe payments disguised as legitimate allowable expenses, including by incorporating the “OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors” into the tax authorities’ tax audit manual.

2. Public advantages

(a) Export credits

223. Export credits agencies are in a privileged position to deter foreign bribery in international business transactions benefiting from official export credit support. In 2019, the OECD Working Party on Credits and Credits Guarantees adopted the 2019 OECD Recommendation of the Council on Bribery and Official Supported Export Credits (2019 Export Credit Recommendation), which replaced the 2006 Export Credit Recommendation. Greece has adhered to the 2019 Export Credit Recommendation. In Greece, the official export credit agency is the Export Credit Insurance Organisation (ECIO).

224. In Phase 3bis, the Working Group recommended that Greece take steps to implement all aspects of the 2006 Export Credit Recommendation, in force at that time, including by (i) adopting measures to prevent and detect foreign bribery, such as enhanced due diligence and scrutiny of payments to agents; (ii) raising awareness of these measures among ECIO staff and the private sector, including by training new and existing ECIO staff; and (iii) developing a written policy for ECIO staff to report foreign bribery to law enforcement authorities (recommendation 14(c)). At the time of the Written Follow-up, Greece reported that ECIO’s policies were undergoing an extensive review and the Working Group considered this recommendation not implemented.

225. In Phase 4 Greece is still in the process of reviewing ECIO’s policies noting that ECIO has not been active in export credits or guarantees due to a decrease in Greece’s exports during the financial crisis. Accordingly, there has been no interest from Greek exporting companies for insurance coverage for international business transactions. Nonetheless, Greece indicates that ECIO staff are aware of measures to be taken in relation to the 2019 Export Credit Recommendation and the applicable legal framework is explicitly mentioned on the website of ECIO under the page “Binding Legislation”. During the on-site visit, ECIO indicated that their insurance contracts have a standard clause of exemption in cases of corruption and fraud. They also affirmed that ECIO would verify foreign bribery allegations, report them to the competent law enforcement authorities and ultimately deny benefits. The Greek authorities further indicated they are preparing a draft law for the complete transformation and modernisation of the Greek ECA which will be followed by the drafting of all the policies of the new company in order to be in accordance with international guidelines, including the 2019 Export Credit Recommendation. This draft law is expected to be introduced in the Parliament in the first quarter of 2022 and the new policies are expected to be in place by the end of 2022. However, Greece was not able to share the draft law with the evaluation team.

Commentary

The lead examiners note Greece’s efforts to restructure its export credits framework after the financial crisis. They are encouraged that Greece is preparing a draft law in order to address all the issues in the 2019 Recommendation but are unable to assess it. They, therefore, reiterate

Phase 3bis recommendation 14(c) and recommend that Greece urgently adopt legislation to implement all aspects of the 2019 Export Credit Recommendation.

(b) Public procurement

226. In Phase 3bis, the Working Group was concerned that Greek authorities involved in public procurement were not aware of the debarment against legal persons' provision in the AML Law (article 45(1)(d)). Additionally, Greece had adopted new public procurement legislation, which raised certain issues. The Working Group, therefore, recommended that Greece (i) consider allowing natural and legal persons that have engaged in foreign bribery to be debarred from obtaining public procurement contracts where appropriate; (ii) require a legal person seeking a public procurement contract to provide documentation demonstrating that it has not been found guilty of foreign bribery; and (iii) train all authorities involved in procurement to ensure that debarments are imposed in practice whenever appropriate (recommendation 14(a)). At the time of the Written Follow-up, Greece had enacted a new Public Procurement Law (Law 4412/2016). However, some concerns remained and the Working Group considered this recommendation partially implemented.

227. Greece has recently adopted a new public procurement law (Law 4782/2021) that expressly includes convictions for all forms of active bribery as a ground for mandatory exclusion of economic operators for five years from public procurement. However, during the on-site visit, the Greek public procurement authorities affirmed that the law refers to criminal convictions against natural persons only. Legal persons seeking a public procurement contract have to submit an ESPD (European Single Procurement Document) completed when tendering for procurement contracts. The ESPD is a self-certification form, and it covers both the mandatory and discretionary exclusions. Non-European companies are under the same obligation. The Greek authorities also affirmed that if a legal person has been debarred by a foreign authority, it would also be excluded from public procurement in Greece. Phase 3bis recommendation 14(a) remains partially implemented.

228. However, Greece has not taken measures to increase the awareness of the corporate liability regime with public procurement authorities. During the on-site visit, public procurement authorities affirmed that they would not check companies' records for foreign bribery convictions or sanctions, but only the records of the individuals involved in the company's management. This position stems from a previous generalised misconception in Greece that corporate liability depends on the criminal conviction of the individuals involved, now incorporated to the AML Law by a recent amendment (see Section C.1.(a) above). In Phase 3bis, the Working Group had already flagged that this practice creates a loophole that could allow a company sanctioned for foreign bribery to gain public contracts in Greece by simply changing management.

Commentary

Greece has expressly included a conviction for all forms of active bribery as a ground for mandatory debarment of natural persons. However, the lead examiners are concerned that Greek public procurement authorities are not sufficiently aware of the corporate liability rules under the AML Law and its debarment provision. Accordingly, the lead examiners are concerned that the public procurement authorities are not actively checking whether a legal person has been sanctioned for foreign bribery even though the law requires this. They, therefore, recommend that Greece (a) raise awareness of its corporate liability regime, especially the debarment provision in the AML Law, to all authorities involved in procurement to ensure that debarments are imposed in practice whenever appropriate in foreign bribery cases and (b) actively check whether legal persons have been sanctioned for foreign bribery before granting public contracts and advantages.

To the extent possible, the lead examiners invite Greece to consider the 2021 Recommendation XXIV on procurement.

(c) Official development assistance (ODA)

229. This Phase 4 evaluation is the first time Greece's ODA system is reviewed in light of the 2016 Recommendation for Development Co-operation Actors on Managing the Risk of Corruption (2016 Recommendation), and in particular sections 6-8 and 10, which relate more directly to foreign bribery. However, Greece is in the process of reorganising its ODA system and the Working Group cannot assess properly the country's implementation of the 2016 Recommendation.

(i) Greece's ODA profile

230. In 2019, Greece provided USD 237.7 million in ODA, representing 0.13% of the country's gross national income (GNI). Greece allocated the majority of its ODA (61.2%) to multilateral organisations, while bilateral aid represented 38.8%. In 2019, the top five destinations of Greek's bilateral ODA were Turkey, Albania, Egypt, Ukraine, and West Bank and the Gaza Strip.⁸¹

231. The MFA, through Hellenic Aid, is responsible for planning and formulating Greece's development cooperation strategy. It also supervises, coordinates, monitors, and evaluates humanitarian and development projects. In 2019, the Ministry of Finance disbursed the majority of Greece's ODA. A range of ministries and agencies, primarily on in-donor refugee costs, disbursed the balance. Greece has provided no ODA through civil society organisations. Funding of non-governmental organisations (NGOs) was on hold in 2019 due to investigations of allegations of misuse and mismanagement of previous grants.⁸²

232. During the on-site visit, Greek authorities stated that they are preparing draft legislation that will cover all the aspects of the 2016 Recommendation. However, Greece was not able to share the text of the draft legislation with the evaluation team.

(ii) Prevention, detection and reporting of corruption in ODA

233. In Phase 3bis, the Working Group was encouraged that Hellenic Aid had adopted some measures to strengthen foreign bribery prevention and detection. These measures included the insertion of contract clauses requiring the recipient of funds to refrain from engaging in foreign bribery. Some concerns in relation to funds delivered through NGOs remained. The Working Group, therefore, recommended that Greece ensure that future funding to NGOs or companies for ODA projects are accompanied by adequate measures to prevent, detect and report foreign bribery, and that NGOs and companies that have engaged in foreign bribery are denied ODA funding where appropriate (recommendation 14(b)). The Written Follow-up found that Greece had partially implemented this recommendation. At that time, Greece had started to review all ODA contracts to detect potential criminal activity. No other measures had been taken.

234. Regrettably, none of the Phase 3bis measures to prevent and detect corruption seems to be in place in Phase 4. In addition, Greece does not require persons applying for ODA contracts to declare whether they have been convicted of corruption offences and does not verify the accuracy of information provided by applicants or ensure that due diligence is carried out prior to the granting of ODA contracts. In addition, Greece does not verify publicly available debarment lists of national and multilateral financial institutions during the applicant's selection process. During the Phase 4 on-site visit, Greek authorities affirmed that the draft legislation would include provisions on prevention, detection and reporting of

⁸¹ OECD (2021), "[Greece](#)", in *Development Co-operation Profiles*, OECD Publishing, Paris.

⁸² *Ibid.*

corruption in ODA, such as anti-corruption clauses and checks. A list of approved NGOs is also being considered. Hellenic Aid representatives stated that foreign bribery allegations have not come to their attention yet.

(iii) Sanctioning corruption in ODA

235. Greece did not provide information on actual sanctions for corruption in ODA projects. During the on-site visit, the Greek authorities affirmed that the draft legislation mentioned above would include debarment as a sanction for foreign bribery. They also mentioned investigations of NGOs suspected of fraud in 2019, however, only one case was concluded with a criminal conviction. Greece has provided no information on the sanctions imposed by Hellenic Aid against these NGOs.

Commentary

The lead examiners regret that Greece has made limited progress since Phase 3bis to address to implement the 2016 Recommendation. However, they recognise that Greece is reorganising its ODA system and find encouraging that it is preparing draft legislation in conformity with the 2016 Recommendation. They, therefore, recommend that Greece proceed urgently with adopting legislation that addresses all aspects of the 2016 Recommendation, in particular, measures that relate directly to the awareness, prevention, detection, reporting, and sanctioning of foreign bribery.

Conclusion: Positive achievements, recommendations, and issues for follow-up

236. The Working Group welcomes Greece's efforts since Phase 3bis towards the implementation of the Convention and related instruments. However, it concludes that Greece has made limited progress in all three focus areas of the Phase 4 evaluation, namely the detection and enforcement of the foreign bribery offence and the liability of legal persons.

237. The Working Group notes that Greece has taken some steps, notably through the National Anti-Corruption Action Plan (NACAP) and the National Risk Assessment (NRA) to improve detection. However, it has not yet seen evidence of an increase in the detection of foreign bribery cases, and the absence of clear and comprehensive protections for whistleblowers could hinder further Greece's capacity in this regard. Regarding enforcement, the Working Group notes that, as of January 2022, five foreign bribery cases were ongoing, four had been terminated, and the only case that has been concluded, since the entry into force of the Convention in Greece 24 years ago, led to the acquittal of all defendants. Greece needs therefore to strengthen enforcement and the independence of its criminal proceedings. In this context, the Working Group notes the merger of the Public Prosecutor against Crimes of Corruption (PPACC) into the new Economic Crime Prosecutor Office (new ECP) and will closely monitor whether it improves enforcement. Greece would also need to increase the level of sanctions for foreign bribery to ensure that they are effective, proportionate, and dissuasive. Greece continues to face serious challenges in relation to the provision of statistics on sanctions, and, more generally, including on confiscation, and MLA and this needs to be improved. Finally, the Working Group notes with grave concern that Greece does not have an effective legal framework for holding legal persons liable for foreign bribery or related offences and recommends that Greece urgently proceed to bring its legal framework in line with the Convention and related instruments .

238. Regarding implementation of the Phase 3bis recommendations, the Working Group considers that Greece has fully implemented recommendations 2(d), 5(b), 7(a), 10(a), 9(c), and 13(b); partially implemented recommendations 1, 4(a), 4(d), 5(c), 10(c), 10(d), 13(a), 14(a), and 14(b); and not implemented recommendations 2(b), 2(c), 3(a), 3(b), 3(c), 3(d), 5(a), 8, 11(b), 13(e), and 14(c). Recommendations 4(b), 6, 7(b), and 9(b) were converted into follow-up issues.

239. Based on the findings of this report, the Working Group acknowledges good practices and positive achievements and makes the recommendations to Greece. The Working Group will also follow up on number of issues identified below. The Working Group invites Greece to submit, within one year, a written report on the measures taken to implement recommendations 2(a), 8(a), 8(c), 8(e), 8(f), 8(g), 10(a) and 10(c) and follow up issue 17(g). In order to support Greece with the implementation and enforcement of its obligations under the Convention, the Working Group may consider additional measures and invites Greece to avail itself of the assistance of the Working Group. The Working Group also invites Greece to submit a written report on the implementation of all recommendations and follow-up questions raised by

the Working Group in two years' time (i.e. March 2024), including detailed information on its enforcement of the foreign bribery offence when submitting this report.

Good Practices and Positive Achievements

240. The report has identified a number of good practices and positive achievements by Greece regarding implementation of the Convention and related instruments.

241. The Working Group welcomes the establishment of NTA with competence to coordinate national efforts in the fight against corruption and foreign bribery, including by raising awareness, providing training and capacity building and engaging with the private sector in promoting anti-corruption compliance. It also welcomes the inclusion of foreign bribery in the NRA as a predicate offence that presents a high risk of money laundering. The Working Group will continue to monitor whether these efforts will result in more detection of foreign bribery cases.

242. Moreover, the establishment of National Coordinating Body for Audit and Accountability (ESOEL) with the participation of several enforcement authorities in its meetings and Greece's decision to continue to assign primary responsibility for the investigation of foreign bribery cases to a single prosecutor's office could strengthen Greece's capacity to enforce the foreign bribery offence. The Working Group also welcome the efforts by Greek prosecutors in continuing the investigations for related offences where foreign bribery allegations are time barred because of the downgrading of the foreign bribery offence in June 2019.

243. In terms of positive achievements, the Working Group notes, in particular, Greece's decision to eliminate again the defence of effective regret for the active foreign bribery offence having reintroduced it in Phase 3bis, exempt foreign bribery cases from the decision of the Minister of Justice to postpone or suspend criminal proceedings of offences in which the international relations of the State may be disturbed, provide for the full range of investigative techniques, including special investigative techniques, asset freezing or confiscation, as MLA.

Recommendations of the Working Group

Recommendations for ensuring effective prevention and detection of foreign bribery

1. Regarding **detection of foreign bribery by public officials**, the Working Group recommends that Greece:
 - (a) improve the NACAP in relation to foreign bribery and fully implement the NACAP and the NRA [2009 Recommendation III(i), and IX(ii); Annex I.A];
 - (b) continue to raise awareness and provide regular training to public officials who could play a role in detecting and reporting foreign bribery about the offence and reporting obligation. [2009 Recommendation III(i), and IX(ii); Annex I.A];
 - (c) analyse why Greek embassies have failed to report foreign bribery allegations that had been circulated in the foreign media, take appropriate remedial action, and continue to raise the awareness of diplomatic staff of foreign bribery, and their role in detecting and reporting foreign bribery allegations to the competent authorities [2009 Recommendation III(i) and Annex I.A].
2. Regarding **whistleblower protection**, the Working Group recommends that Greece, in the context of forthcoming reforms:

- (a) urgently enact legislation that provides strong and effective protections from retaliation for whistleblowers in the public and private sectors who report suspected acts of foreign bribery [2009 Recommendation III(i) and (iv), and IX(iii); Phase 3bis recommendation 13(e)];
 - (b) raise awareness of the new law, once this is enacted, and the protections available to public and private sector employees [2009 Recommendation III(iv) and IX(iii)].
3. Regarding **detection and reporting**, the Working Group recommends that Greece:
- (a) continue to develop and implement a strategy to detect cases of foreign bribery involving Greek individuals or companies [2009 Recommendation III(i) and Phase 3bis Recommendation 13(a)];
 - (b) ensure that laws relating to freedom of the press are fully applied in practice and that allegations of foreign bribery can be reported [Convention Article 5 and Commentary 27; 2009 Recommendation III(i), Annex I.D.].
4. Regarding **detection of foreign bribery by accountants and auditors**, the Working Group recommends that Greece:
- (a) urgently proceed with raising awareness, and providing training to external auditors on the foreign bribery offence, including red flags and methods to detect foreign bribery [Convention Article 8; 2009 Recommendation III(i) and X.B(iii) and (v); Phase 3bis recommendation 10(c)];
 - (b) take steps to urgently clarify the obligations and process for external auditors to report suspicions of foreign bribery and raise the awareness of those reporting obligations among external auditors [Convention Article 8; 2009 Recommendation III(i) and X.B(iii) and (v); Phase 3bis recommendation 10(d)].

Recommendations for ensuring effective enforcement of the foreign bribery and related offences

5. Regarding the **foreign bribery offence**, the Working Group recommends that Greece:
- (a) clarify that its foreign bribery offence does not take into account factors such as the value of the advantage, perceptions of local custom, and the tolerance of local authorities in the country of the foreign public official [Convention Article 1(1) and Commentary 7; Phase 3bis recommendation 2(b)];
 - (b) amend the definition of a foreign public official to ensure that it covers officials of all public international organisations [Convention Article 1(4)(a) and Commentary 17; Phase 3bis recommendation 2(c)];
 - (c) take the necessary steps to ensure that the breach of duty of the foreign public official must be construed autonomously without the need to resort to foreign law [Convention Article 1(1) and Commentary 3].
6. Regarding **sanctions**, the Working Group recommends that Greece:
- (a) re-impose fines in addition to imprisonment for misdemeanour foreign bribery [Convention Article 3];
 - (b) as a matter of urgency, substantially increase the maximum fines available against natural persons for foreign bribery in all relevant offences [Convention Article 3; Phase 3bis recommendation 5(a)];

- (c) increase the capped monetary sanctions for legal persons in cases where the benefit cannot be determined to ensure that sanctions imposed are effective, proportionate or dissuasive [Convention Articles 2 and 3; Phase 3bis recommendation 5(c)];
 - (d) publish promptly, and in conformity with the applicable rules, as much information as possible about the sanctions imposed against legal persons, for example the underlying facts of the case, reasons for the choice of sanctions, the legal persons sanctioned (anonymised if necessary), and the actual sanctions imposed [Convention Articles 2, 3 and 5 and Commentary 27; 2009 Recommendation V and Annex I.D];
 - (e) maintain detailed statistics on sanctions imposed in foreign bribery cases [Convention Article 3, Phase 3bis Recommendation 8(ii)].
7. Regarding **confiscation**, the Working Group recommends that Greece:
- (a) draw the attention of prosecutors, including through training or guidance, to the importance of routinely seeking confiscation against natural persons in foreign bribery cases [Convention Article 3(3) and Commentary 22];
 - (b) introduce legislation to enable confiscation of the bribe and proceeds of bribery, or monetary sanctions of comparable effect, directly against legal persons and without prior conviction of a natural person [Convention Article 3(3) and Commentary 22];
 - (c) maintain detailed statistics on confiscation in foreign bribery cases [Convention Article 3(3) and Commentary 22].
8. Regarding the **investigation and prosecution** of foreign bribery, the Working Group recommends that Greece:
- (a) closely monitor the outcomes of the merger of the PPACC with the new ECP and ensure that it does not hinder the effective investigation of foreign bribery [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
 - (b) ensure that the new ECP uses proactive steps in relation to foreign bribery investigations [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D; Phase 3bis recommendation 4(d)];
 - (c) ensure that the transfer of foreign bribery cases from the new ECP to the PPO does not result in delays to cases, lack of priority for foreign bribery prosecutions, and duplication of efforts [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D; Phase 3bis recommendation 4(a)];
 - (d) amend the Code of Criminal Procedure in order to specifically assign competence for investigating foreign bribery offences to the new ECP [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
 - (e) raise awareness including through training by the National School of Judges on Article 5 of the Convention among prosecutors and investigative judges to ensure that foreign bribery investigations and prosecutions are not influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of the natural or legal persons involved [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
 - (f) raise awareness including through guidelines on Article 5 of the Convention among relevant parts of the government to ensure that they refrain from contacting prosecutors and investigative judges about specific cases and that any actual or threatened action against them does not affect the effectiveness of foreign bribery investigations and

prosecutions [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

- (g) ensure that the bodies and investigative judges responsible for investigating and prosecuting foreign bribery have sufficient human and technical resources, including translation services for MLA requests, to deal with foreign bribery cases effectively and in a timely matter [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D; Phase 3bis recommendation 4(a)];
- (h) provide training on foreign bribery investigations to the prosecutors and investigators at the new ECP, SDOE and NTA [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
- (i) take steps to ensure that Greek law enforcement officials attend the Working Group Informal Meetings of Law Enforcement Officials [Convention Articles 5 and 12, and Commentary 27; 2009 Recommendation XIV(iv)].

9. Regarding **international cooperation**, the Working Group recommends that Greece:

- (a) proceed urgently with maintaining detailed statistics on MLA requests, including the offence underlying requests, time required for execution, and nature of assistance sought [Convention Article 9; 2009 Recommendations III(ix) and XIII; Phase 3bis recommendation 8(iv)];
- (b) use all available means to secure MLA, in particular through contact with foreign authorities via informal channels and the Working Group Informal Meetings of Law Enforcement Officials meetings [Convention Article 9; 2009 Recommendation XIII(i)(iii) and XIV(iv)].

Recommendations regarding liability of, and engagement with, legal persons

10. Regarding **liability of legal persons**, the Working Group recommends that Greece:

- (a) urgently reform its legal framework and enact standalone legislation that establishes liability of legal persons for foreign bribery and related offences [Convention Articles 2; 2009 Recommendation Annex I.B, C, and D];
- (b) as part of the reform to the liability of legal persons regime ensure (i) that legal persons cannot avoid responsibility by using intermediaries, including related legal persons, and other third parties to commit foreign bribery, (ii) that liability of a legal person can be triggered where a person in a managerial position “directs or authorises” a lower level employee to commit foreign bribery, (iii) it is clear what amounts to adequate supervision, and control to prevent foreign bribery, (iv) that the law does not require evidence of profit, and does not exclude indirect advantages, such as the advantage of a third party, and cases where the legal person benefited coincidentally, and (v) that legal persons cannot avoid liability or sanctions for foreign bribery, and related offences by restructuring, merging, being acquired, or otherwise altering their corporate identity [Convention Article 2; 2009 Recommendation Annex I.B; Phase 3bis recommendation 3(a)];
- (c) urgently reverse the recent amendment to article 45(1) AML Law and further clarify legislation and practice to ensure that liability of legal persons is not restricted to cases where the natural person who perpetrated the offence is prosecuted or convicted [Convention Articles 2 and 5; 2009 Recommendation Annex I.B; Phase 3bis recommendation 3(b)];
- (d) clarify the circumstances under which Greek authorities will have jurisdiction to proceed against a legal person and provide for an effective jurisdictional basis to commence such

proceedings for foreign bribery, including where the legal person uses intermediaries, including related legal persons and other third parties to bribe on its behalf abroad [Convention Article 2 and 4; 2009 Recommendation Annex I.B];

- (e) urgently amend its legislation to assign competence for foreign bribery proceedings against all legal persons, whether obligated or non-obligated, to an appropriate authority with the necessary resources and powers to conduct such proceedings [Convention Articles 2, 5 and Commentary 27; 2009 Recommendation Annex I.B and D];
- (f) ensure that the necessary range of investigative tools and powers becomes available in all investigations and proceedings against legal persons [Convention Articles 2, 5 and Commentary 27; 2009 Recommendation Annex I.D];
- (g) implement safeguards to ensure that proceedings against legal persons for foreign bribery are not affected by the factors described in Article 5 of the Convention [Convention Articles 2, 5 and Commentary 27; 2009 Recommendation Annex I.D];
- (h) (i) urgently draw to the attention of its authorities the importance of taking proceedings against legal persons for foreign bribery, including by strengthening training programmes on the topic; and (ii) proactively pursue proceedings against legal persons for foreign bribery and related offences [Convention Articles 2, 5 and Commentary 27; 2009 Recommendation Annex I.D].

11. Regarding **engagement with the private sector**, the Working Group recommends that Greece continue to (i) take measures to raise awareness on the corporate liability framework among business associations and companies, and (ii) promote the development and implementation of anti-corruption internal controls, ethics and compliance programmes by the private sector, in particular SMEs that are concerned with international business transactions [2009 Recommendation III(i) and Annex II].

Recommendations regarding other measures affecting implementation of the Convention

12. Regarding **money laundering**, the Working Group recommends that Greece:

- (a) urgently raise awareness of foreign bribery as a predicate offence, and provide additional guidance to reporting entities regarding the detection of foreign bribery, including through case studies and typologies [Convention Article 7; 2009 Recommendation III(i)];
- (b) take the necessary measures, including policy guidance, to ensure that, in practice, a predicate offence does not need to be proven beyond reasonable doubt in order to prosecute and convict for money laundering [Convention Article 7; 2009 Recommendation III(i)];
- (c) maintain statistics on STRs received to allow the Hellenic FIU to analyse the obliged entities that are reporting STRs, and also the underlying predicate offence, including foreign bribery [Convention Article 7; 2009 Recommendation III(i)].

13. Regarding **taxation**, the Working Group recommends that Greece:

- (a) ensure that when natural or legal persons are convicted or sanctioned for foreign bribery they proactively enforce the non-tax deductibility of bribe payments, including by ensuring the prosecuting or sanctioning authorities systematically share information with AADE in relation to foreign bribery convictions or sanctions, and AADE systematically re-examine tax returns of natural or legal persons convicted or sanctioned for foreign bribery for the relevant years to verify whether bribes have been deducted [2009 Recommendation III(iii) and VIII(i)];

- (b) provide regular training to tax auditors on the detection of bribe payments disguised as legitimate allowable expenses, including by incorporating the “OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors” into the tax authorities’ tax audit manual [2009 Recommendation III(iii) and VIII(i)].
14. Regarding **officially supported export credits**, the Working Group recommends that Greece urgently adopt legislation to implement all aspects of the 2019 Export Credit Recommendation [2009 Recommendation XII(ii); Phase 3 recommendation 14(c)].
15. Regarding **public procurement**, the Working Group recommends that Greece:
- (a) raise awareness of its corporate liability regime, especially the debarment provision in the AML Law, to all authorities involved in procurement to ensure that debarments are imposed in practice whenever appropriate in foreign bribery cases [2009 Recommendation III(i) and XI(iii)];
 - (b) through its public procurement authorities actively check whether legal persons have been sanctioned for foreign bribery before granting public contracts and advantages [2009 Recommendation XI(iii)].
16. Regarding **official development assistance** (ODA), the Working Group recommends that Greece proceed urgently with adopting legislation that addresses all aspects of the 2016 Recommendation, in particular, measures that relate directly to the awareness, prevention, detection, reporting, and sanctioning of foreign bribery [2009 Recommendation XI(ii); 2016 Recommendation].

Follow-up by the Working Group

17. The Working Group will follow up on the issues below as case law, practice and legislation develops:
- (a) whether the Hellenic FIU is adequately resourced to effectively detect money laundering cases predicated on foreign bribery [Convention Article 7; Phase 3bis recommendation 9(b)];
 - (b) whether article 237B CC covers public officials from state-owned enterprises as defined in Commentary 14 [Convention Article 1(4) and Commentary 14];
 - (c) whether sanctions imposed against natural persons for foreign bribery are effective, proportionate and dissuasive, in light of the system of converting and suspending sentences of imprisonment [Convention Article 3(1)];
 - (d) the enforcement of the false accounting offence [Convention Articles 5 and 8 and Commentary 27];
 - (e) how the ESOEL operates in practice and the coordination between the prosecutors at the new ECP, the various investigative agencies and the PPO as new foreign bribery cases commence [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
 - (f) whether the limitation period for foreign bribery offences qualified as misdemeanours is sufficient to allow adequate investigation and prosecution, especially in cases with pending MLA requests [Convention Article 6; Phase 3bis recommendation 6];
 - (g) the Pharmaceutical company case and criminal proceedings against the former chief PPACC prosecutor [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

- (h) the reasons for the termination of foreign bribery cases, including those cases where foreign bribery offences are time barred and other related offences are being considered [Convention Articles 5 and 6 and Commentary 27; 2009 Recommendation Annex I.D];
- (i) issues concerning MLA, namely (i) whether the dual criminality under article 459(3) CCP hampers Greece's capacity to provide prompt and effective legal assistance in cases of foreign bribery, and (ii) if the procedure for executing MLA requests does not hamper Greece's capacity to provide prompt and effective legal assistance in cases of foreign bribery [Convention Article 9; 2009 Recommendation XIII(iv)];
- (j) issues concerning the liability against a legal person for foreign bribery, namely (i) sanctions imposed in practice against legal persons are effective, proportionate or dissuasive, and (ii) the application of the factors for determining the nature and the amount of sanctions against a legal person under article 45(4) AML Law [Convention Articles 2-5; 2009 Recommendation Annex I.B].

Annex 1: Phase 3bis recommendations to Greece and assessment of implementation by the Working Group on Bribery in 2017

PHASE 3BIS RECOMMENDATIONS		TWO-YEAR WRITTEN FOLLOW-UP
Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery		
1	With regards to the <u>priority given to fighting foreign bribery</u> , the Working Group recommend that Greece urgently raise the priority given to this matter and explicitly address foreign bribery in its current National Anti-Corruption Action Plan and its subsequent national anti-corruption strategies.	Partially implemented
2	With regards to the foreign bribery offence , the Working Group recommends that Greece:	
	a) while acknowledging its legislation and jurisprudence indicate that the foreign bribery offence does not require proof of an agreement between the parties, take appropriate measures, such as through circulars or training, to clarify to or remind law enforcement authorities and judges that the foreign bribery offence does not require such proof.	Fully implemented
	b) clarify that its foreign bribery offence does not take into account factors such as the value of the advantage, perceptions of local custom, and the tolerance of local authorities in the country of the foreign public official.	Not implemented
	c) amend the definition of a foreign public official to ensure that it covers officials and agents of public international organisations of which Greece is not a member.	Not implemented
	d) amend its legislation and eliminate the effective regret defence in Article 263B(1) PC for the active foreign bribery offence.	Not implemented
3	With regards to the <u>liability of legal persons</u> , the Working Group recommends that Greece:	
	a) issue guidance or provide training on what amounts to adequate supervision and control to prevent foreign bribery.	Not implemented
	b) ensure that the liability of legal persons is not restricted to cases where the natural person(s) who perpetrated the offence is prosecuted, and that proceedings against legal persons may be commenced in the absence of criminal investigation against a natural person.	Not implemented

PHASE 3BIS RECOMMENDATIONS	TWO-YEAR WRITTEN FOLLOW-UP
c) clarify the procedure for investigations and proceedings against legal persons, including which body would launch and conduct such investigations.	Not implemented
d) take steps to clarify that the PPACC and other prosecutors who investigate foreign bribery cases will inform the Minister of Justice or the competent AML supervisory authorities of a legal person's involvement in a foreign bribery case, as required by Article 51(5) of the AML Law.	Not implemented
4 Regarding investigations and prosecutions , the Working Group recommends that Greece:	
a) ensure that the bodies responsible for investigating and prosecuting foreign bribery have sufficient human and technical resources, including by providing PPACC with a case management system and the ability to track the status of a criminal in real time	Partially implemented
b) take all necessary measures to ensure that foreign bribery can be investigated by SDOE, Hellenic Police and EPS where appropriate, and set out a mechanism that would allow prosecutors to decide which investigative body should have conduct of specific foreign bribery investigations.	Partially implemented
c) take all necessary measures to ensure that it assesses credible allegations of foreign bribery and seriously investigates complaints of this crime.	Fully implemented
d) use proactive steps to gather information from diverse sources to increase allegations and enhance foreign bribery investigations, including by taking all necessary steps to gather evidence in Greece.	Partially implemented
e) intensify training to judges and law enforcement officials on the Convention and the foreign bribery offence, including by providing training on the practical aspects of foreign bribery investigations	Fully implemented
5 With regards to sanctions , the Working Group recommends that Greece:	
a) increase the maximum fines available against natural persons for foreign bribery.	Not implemented
b) amend its legislation so that the sanctions against "non-obligated" legal persons for foreign bribery are equivalent to those for "obligated" legal persons.	Not implemented
c) substantially increase the maximum fines available against legal persons, especially for foreign bribery resulting from company management's failure to exercise supervision or control.	Not implemented
6 With regards to the statute of limitations , the Working Group recommends that Greece take steps to ensure that the limitation period for foreign bribery offences qualified as misdemeanours is sufficient to allow adequate investigation and prosecution, at a minimum by allowing outstanding MLA requests to interrupt the limitation period.	Not implemented
7 Regarding mutual legal assistance , the Working Group recommends that Greece:	

PHASE 3BIS RECOMMENDATIONS		TWO-YEAR WRITTEN FOLLOW-UP
	a) amend its legislation to explicitly provide for certain the types of assistance (e.g. special investigative techniques, asset freezing and confiscation) for MLA requests that are not based on a treaty.	Not implemented
	b) streamline the process for executing incoming MLA requests with a view to reducing delay in providing MLA.	Partially implemented
8	With regards to statistics , the Working Group recommends that Greece maintain detailed statistics on (i) foreign bribery enforcement actions against natural and legal persons; (ii) sanctions and confiscation imposed in foreign bribery cases; (iii) criminal cases (particularly those involving corruption) that are barred by the statute of limitations; and (iv) MLA requests, including the offence underlying requests, time required for execution, and nature of assistance sought	Not implemented
Recommendations for ensuring effective prevention, detection, and reporting of foreign bribery		
9	With regards to money laundering , the Working Group recommends that Greece:	
	a) ensure that all stakeholders involved in the fight against money laundering are adequately aware that foreign bribery is a predicate offence for money laundering, and provide awareness-raising and training to FIU officials on detecting bribery-related money laundering cases.	Fully implemented
	b) take steps to ensure that the FIU is adequately resourced to effectively detect money laundering cases predicated on foreign bribery.	Partially implemented
	c) take steps to ensure that the FIU promptly refers suspicions of foreign bribery to Greek prosecutors for investigation.	Partially implemented
10	With regards to accounting and auditing, corporate compliance, internal control and ethics , the Working Group recommends that Greece:	
	a) ensure the same body can prosecute both foreign bribery and the false accounting offence in Law 4254/2014.	Not implemented
	b) raise awareness of the false accounting offence in Law 4254/2014 among law enforcement agencies that may investigate and prosecute this offence.	Fully implemented
	c) raise awareness of Greece's foreign bribery laws among Greek accountants and auditors, and encourage accountants and auditors to take an audited company's risk of committing foreign bribery into account when performing audits.	Partially implemented
	d) take steps to clarify an external auditor's duty to report foreign bribery internally to the audited company's management, and externally to competent authorities, including by clarifying the inter-relationship of Company Law 2190/1920 Articles 22a(3) on an external auditor's duty of confidentiality; Article 40 CPC on the duty to report crimes; the STR provisions of the AML Law; and the provisions on reporting in the ISAs.	Partially implemented

PHASE 3BIS RECOMMENDATIONS	TWO-YEAR WRITTEN FOLLOW-UP
e) encourage companies (especially SMEs) to develop and adopt adequate internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting foreign bribery, taking into account the Good Practice Guidance on Internal Controls, Ethics, and Compliance.	Fully implemented
11 With regards to tax-related measures , the Working Group recommends that Greece:	
a) translate and distribute the latest OECD Bribery Awareness Handbook to all tax examiners.	Fully implemented
b) ensure that Greek tax authorities include bribery in their risk assessments and audits, including by incorporating the Handbook into the tax authorities' tax audit manual.	Not implemented
c) ensure that measures to detect bribes are incorporated into any future tax amnesties.	Not applicable
12 With regards to raising awareness of the foreign bribery offence, the Working Group recommends that Greece:	
a) ensure that its awareness-raising efforts specifically address foreign bribery and not merely "corruption" in general terms.	Fully implemented
b) enhance its efforts to further strengthen and institutionalise the awareness of foreign bribery as a criminal offence among all authorities responsible for detection, investigation and prosecution of foreign bribery, and for executing MLA requests.	Fully implemented
c) proactively raise awareness in sectors at risk of committing foreign bribery, including the shipping, export and SME sectors, and ensure all government bodies that are in direct contact with Greek companies which operate internationally engage in awareness-raising activities, including the Hellenic Capital Markets Commission, overseas diplomatic missions, Enterprise Greece, and the Directorate for Small and Medium-Sized Enterprises.	Fully implemented
13 With regards to detection and reporting , the Working Group recommends that Greece:	
a) develop and implement a strategy to detect cases of foreign bribery involving Greek individuals and companies.	Partially implemented
b) monitor the Greek and foreign media for allegations of foreign bribery committed by Greek individuals or companies.	Partially implemented
c) analyse why Greek embassies have failed to report foreign bribery allegations that had been circulated in the foreign media and take appropriate remedial action.	Fully implemented
d) enforce the obligation of Greek officials to report crime.	Fully implemented
e) amend its legislation and put in place appropriate measures to protect from discriminatory or disciplinary action private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of foreign bribery.	Not implemented

	PHASE 3BIS RECOMMENDATIONS	TWO-YEAR WRITTEN FOLLOW-UP
14	With regards to public advantages , the Working Group recommends that Greece:	
	a) (i) consider allowing natural and legal persons that have engaged in foreign bribery may be debarred from obtaining public procurement contracts where appropriate; (ii) require a legal person seeking a public procurement contract to provide documentation demonstrating that it has not been found guilty of foreign bribery; and (iii) train all authorities involved in procurement to ensure that debarments are imposed in practice whenever appropriate.	Partially implemented
	b) ensure that future funding to NGOs or companies for ODA projects are accompanied by adequate measures to prevent, detect and report foreign bribery, and that NGOs and companies that have engaged in foreign bribery are denied ODA funding where appropriate	Partially implemented
	c) take steps to implement all aspects of the 2006 Export Credits Recommendation, including by (i) adopting measures to prevent and detect foreign bribery, such as enhanced due diligence and scrutiny of payments to agents; (ii) raising awareness of these measures among its staff and the private sector, including by training its new and existing staff; and (iii) developing a written policy for ECIO staff to report foreign bribery to law enforcement authorities.	Not implemented

Annex 2: List of participants in the on-site visit

Government Ministries and agencies

- Bank of Greece
- Export Credit Insurance Organisation (ECIO)
- Hellenic Aid
- Hellenic Capital Markets Commission (HCMC)
- Hellenic FIU
- Hellenic Parliament
- Hellenic Single Public Procurement Authority (HSPPA)
- Independent Authority for Public Revenue (AADE)
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Justice
- National School of Judges

Law enforcement

- Directorate General of Financial and Economic Crime Unit (SDOE)
- Economic Crime Prosecutor's Office (ECP)
- Hellenic Police - Economic Crime Service
- National Transparency Authority
- Public Prosecutor's Office at the First Instance Court of Athens

Judiciary

- First Instance Court of Athens
- First Instance Court of Chania

Private Sector and Business Associations

Companies

- Danaos Shipping
- Ellaktor
- Elpen
- Hellenic Petroleum
- Mytilineos
- Navios Maritime

- Terna
- Titan
- Vianex
- Viohalco and Sidenor

Business associations

- Athens Exchange Group (Athex Group)
- Hellenic Bank Association (HBA)
- Hellenic Federation of Enterprises (SEV)
- International Chamber of Commerce (ICC)

Financial institutions

- Alpha Bank
- Citibank Greece
- Eurobank
- National Bank of Greece
- Piraeus Bank

Legal profession and academics

- University of Athens
- University of Thessaloniki
- Anagnostopoulos Law Firm
- Giannidis Law Firm, Athens
- Hellenic Criminal Bar Association

Accounting and auditing profession

- Hellenic Accounting and Auditing Standards Oversight Board (HAASOB / ELTE)
- Institute of Certified Public Auditors (SOEL)
- Hellenic Institute of Internal Auditors (HIIA)
- Deloitte
- Ernst & Young
- KPMG
- Price Waterhouse Coopers (PwC)

Civil society and media

- Transparency International Greece
- Investigative journalist

Annex 3: List of abbreviations, terms and acronyms

AADE	Authority for Public Revenue	New ECP	Economic Crime Prosecutor after the merger of the old ECP with the PPACC
AML	anti-money laundering	NGO	non-governmental organisation
CC	Criminal Code	NTA	National Transparency Authority
CCP	Code of Criminal Procedure	ODA	official development assistance
DOJ	US Department of Justice	PEP	politically exposed person
ECA	Export credit agency	PPACC	Public Prosecutor against Crimes of Corruption
ECIO	Export Credit Insurance Organisation	SDOE	Body for the Prosecution of Economic Crime
ECP	Economic Crime Prosecutor	SEC	US Securities and Exchange Commission
EPS	Economic Police Service, Hellenic Police	SME	small- and medium-sized enterprise
ESOEL	National Coordinating Body for Audit and Accountability	SOE	state-owned or state-controlled enterprise
EU	European Union	STR	suspicious transaction report
EUR	Euro	UNCAC	United Nations Convention against Corruption
FATF	Financial Action Task Force	USD	United States dollar
FCPA	U.S. Foreign Corrupt Practices Act 1977		
GRECO	Council of Europe Group of States against Corruption		
HAASOB	Hellenic Accounting and Auditing Standards Oversight Board		
HCMC	Hellenic Capital Markets Commission		
MFA	Ministry of Foreign Affairs		
MLA	mutual legal assistance		

Annex 4: Excerpts of relevant legislation

(Machine translation.)

Criminal Code

Article 236: Active bribery of an official

(as last amended by Law 4855/2021)

1. Whosoever offers, promises or gives to an official, directly or through a third party, an undue advantage of any nature, for themselves or for another person, for an action or omission on their part, future or already completed, related to the performance of their duties, shall be punished by imprisonment (φυλάκιση).
2. If the aforementioned action or omission contravenes the duties of the official, the offender shall be punished by imprisonment of up to eight years (κάθειρξη) and a pecuniary penalty.
3. A head of business or any other person who is vested with a decision-making or control powers in business shall be punished by imprisonment of up to two years or a pecuniary penalty, if the act is not penalised heavier, if by infringing a specific obligation of due diligence, they negligently failed to prevent a person under their command or subject to their control from committing, to the benefit of the business, any act of the preceding sections.
4. The provisions of paragraphs 1, 2 and 3 shall also apply when the acts are committed regarding: (a) officials or other employees of any contractual relationship of an institution or body of the European Union having its headquarters in Greece and of any public international or supranational organisation of which Greece is a member and any person, whether seconded or not, performing duties corresponding to those performed by the officials or other employees or b) any person exercising a public office or service for a foreign country. In such cases, the Greek criminal laws also apply when the act is performed abroad by a national, even if it is not punishable under the laws of the country where it was committed and for the prosecution of the offence under para. 1 the complaint or request provided under article 6 para. 3 is not required.

Criminal Procedure Code

Article 29: Right of the Minister of Justice to postpone or suspend a criminal prosecution

(as last amended by Law 4637/2019)

In political offences and offences in which the international relations of the State may be disturbed, with the exception of any type of active and passive bribery, the Minister of Justice, following the concurring opinion of the Council of Ministers, may postpone or suspend a prosecution of such offences indefinitely.

Article 35: Duties of the Economic Crime Prosecutors

(as last amended by Law 4855/2021)

1. The economic crime prosecutors, their deputies and the assistant public prosecutors, conduct a preliminary investigation either in person or by ordering the general or special investigating officers, in

order to determine whether a major criminal offence has been committed, at the discretion of the Head of the Department of Economic Crime. The major criminal offence referred to above includes tax, financial and any other related crimes, where such crimes: are committed against the Greek State, the European Union, local authorities and legal entities governed by public law; or seriously damage the national economy. The economic crime prosecutors, their deputies and the assistant public prosecutors are also competent for the felonies that are not included in the provisions of para. 1 of Article 86 of the Constitution and are committed by Ministers or Vice-Ministers, as well as for those committed by certain individuals in the discharge of their duties or by taking advantage of their official position. The individuals that are referred to above include Members of Parliament, Members of the European Parliament representing Greece, Secretaries-General and Special Secretaries of the State, administrative officers, assistant administrative officers, presidents of governing councils, managing directors or authorised advisers of legal entities government by public law and elected single-member bodies of local government, all employees as defined in article 13 of the Criminal Code, and those who serve permanently or temporarily and in any capacity or relationship in:

- a) legal entities that are governed by private law and were established by the State and by legal entities that are governed by public law, provided that the founding legal entities participate in their administration or that the founding legal entities are in charge of the execution of State schemes relating to economic restructuring or development; and
- b) legal entities that are governed by private law to which subsidies or funding can be granted by the State and by legal entities governed by public law under the legal provisions in force, even if the capacity under which the perpetrators were acting has ceased, provided that these private legal entities are associated with the pursuit of an economic advantage for their own interests or for the interests of third parties or with the causation of damage to the State, legal entities governed by public law or local government or to the private legal entities mentioned above.

Law 4557/2018 (AML Law)

Article 45: Liability of legal persons

(as last amended by Law 4816/2021)

1. If the criminal offence of money laundering or any of the basic offences is committed for the benefit or on behalf of a legal person by a natural person acting either individually or as a member of a body of the legal person and holding a managerial position within it or has the power to represent it or to authorise it to take decisions on their behalf or to exercise control over it, the following sanctions shall be imposed on the legal person, cumulatively or separately:

- a) Administrative fine from fifty thousand (50 000) euros to ten million (10 000 000) euros. The exact amount of the fine is set at least twice the amount of the profit resulting from the infringement, if the profit can be determined, or if it cannot be determined in one million (1 000 000) euros.
- b) Permanent or temporary, for a period of one (1) month to two (2) years, revocation or suspension of the operating license or prohibition of doing business, or dissolution of the legal entity or entity and its position under liquidation .
- c) Prohibition of certain business activities or the establishment of branches or the increase of the share capital, for the same period of time.
- d) Permanent or temporary exclusion for the same period from public benefits, aids, assignments of works and services, supplies, subsidies, advertisements and tenders of the Greek State or of the legal entities of public law including the Local Self-Government Organisations (OTA) and their legal entities without prejudice to articles 73 and 74 law 4412/2016 (A '147) and 39 and 42 Law 4413/2016 (A' 148).

The administrative fine of circumstance a) is always imposed regardless of the imposition of other sanctions. The same sanctions shall be imposed when a natural person holding any of the items referred to in the first subparagraph qualifies as a moral perpetrator or accomplice in the same acts. The imposition of administrative sanctions requires an irrevocable conviction against the natural person.

2. When the lack of supervision or control by a natural person referred to in para. 1 made it possible for a hierarchically lower executive or agent of the legal person to commit the act of money laundering or the basic offence for the benefit or on behalf of the legal person, the following sanctions shall be imposed reasonably on the legal entity or entity, cumulatively or separately:

a) Administrative fine from ten thousand (10 000) euros to five million (5 000 000) euros. The exact amount of the fine is set at least twice the amount of the profit resulting from the infringement, if the profit can be determined, or if it cannot be determined in one million (1 000 000) euros.

b) The sanctions provided for in circumstance b), c) and d) of para. 1, for a period of up to one (1) year.

3. In the case of an obligated legal person or entity, the above sanctions shall be imposed by a reasoned decision of the competent supervisory authority. If it is a non-obligated legal entity or entity, they are imposed by a reasoned decision of the Head of the competent Operational Directorate of S.D.O.E.

4. For the cumulative or dissociative imposition of the sanctions provided for in paragraphs 1, 2 and 3 and for the measurement of these sanctions, all relevant circumstances shall be taken into account, in particular:

- (a) the gravity and duration of the infringement;
- (b) the degree of liability of the legal person or
- (c) the financial standing of the legal person; or
- (d) the amount of the unlawful profit or the resulting benefit;
- (e) the damage to third parties resulting from the offence.

5. No sanction is imposed without prior notice summoning of the legal representatives of the legal person for explanations. The summons is notified to the interested party at least ten (10) full days before the day of the hearing. For the rest, para. 1 and 2 of article 6 of the Code of Administrative Procedure (Law 2690/1999, A '45) apply. In order to establish the commission of infringements and to impose the penalties provided for, the competent authorities shall exercise their supervisory powers in accordance with the provisions governing their operation.

6. The application of the provisions of paras. 1 to 5 is independent of the civil, disciplinary or criminal liability of the natural persons referred to in them.

7. The prosecuting authorities shall immediately inform, as appropriate, the authority responsible for the imposition of sanctions for the prosecution of cases in which there is involvement of a legal person or entity, within the meaning of paragraphs 1 and 2 and shall send them a copy of the relevant case file. In case of conviction of a natural person for the criminal acts mentioned in para. 1 and 2, the court may respectively order the sending of a copy of the conviction decision and the relevant file to the authority responsible for the imposition of sanctions.