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Group of States against corruption

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Second Evaluation Round

Evaluation Report on Sweden

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I. INTRODUCTION

1. Sweden was the fifteenth GRECO member to be examined in the second Evaluation round. The GRECO evaluation team (hereafter referred to as the "GET") was composed of Mr Marin MRČELA, Judge, Zagreb County Court, Croatia; Mr Alex BELLING, Policy on integrity Coordinator, Ministry of the Interior and Kingdom Relations, Management of Public Sector Directorate-General, The Hague, Netherlands; and Mr Antti PIHLAJAMAKI, Chief District Prosecutor, Public Prosecutor's Office, Turku Administrative District, Finland. This GET, accompanied by a member of the Council of Europe Secretariat, visited Sweden from 18 to 22 October 2004. Prior to the visit the GET experts were provided with replies to the Evaluation questionnaire (document Greco Eval II (2004) 1E) as well as copies of relevant legislation.

2. The GET met with officials from the following governmental organisations: the Ministry for Foreign Affairs, the Chancellor of Justice, the Parliamentary Ombudsmen, the Ministry of Justice (several departments), the Office of the Prosecutor General including the National Anti-Corruption Unit, the Economic Crimes Bureau, the Ministry of Finance, the Ministry of Industry, Employment and Communication, the National Audit Office, the National Board for Public Procurement, the Agency for Public Management, the National Council for Quality and Development, the National Financial Management Authority, the Agency for Government Employers, the Competition Authority, the Companies Register Office and the Commission on Business Confidence. Moreover, the GET met with representatives of the following non-governmental institutions: the Association of Local Authorities, the Federation of County Councils, the Trade Union Confederation, the Anti-Corruption Institute , the International Chamber of Commerce and Transparency International. The GET also met with representatives of a newspaper (Dagens Nyheter) and representatives of two business companies (ICA and Skanska).

3. The 2nd Evaluation Round runs from 1st January 2003 to 31 December 2005, in accordance with Article 10.3 of the Statute of GRECO, the evaluation procedure deals with the following themes:

   - **Theme I - Proceeds of corruption:** Guiding Principles 4 (seizure and confiscation of proceeds of corruption) and 19 (connections between corruption and money laundering/organised crime), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173[1]), by Articles 19 paragraph 3, 13 and 23 of the Convention;
   - **Theme II - Public administration and corruption:** Guiding Principles 9 (public administration) and 10 (public officials);
   - **Theme III - Legal persons and corruption:** Guiding Principles 5 (legal persons) and 8 (fiscal legislation), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173), by Articles 14, 18 and 19, paragraph 2 of the Convention.

4. The present report was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the effectiveness of measures adopted by the Swedish authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 3. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Sweden in order to improve its level of compliance with the provisions under consideration.

[1] Sweden ratified the Criminal Law Convention on Corruption on 25 June 2004. The Convention entered into force on 1 October 2004.

II. THEME I – PROCEEDS OF CORRUPTION

a. Description of the situation

Confiscation and other deprivation of instrumentalities and proceeds of crime

5. In Swedish legal theory, confiscation is considered a "special legal effect of a crime" and not a penalty. Confiscation may in principle be applied in relation to any crime. A decision on confiscation is taken by a court of law and, as a rule, in the proceedings concerning the questions of criminal responsibility and penalty. A confiscation order may affect (reduce) the penalty.

6. The use of confiscation - objects or the value thereof - is regulated in Chapter 36 of the Penal Code[2] (hereinafter PC) and in special legislation regarding particular situations. A condition for using confiscation is that a crime (including corruption) has been committed. Confiscation may also be ordered in situations where the offender is not convicted (*in rem confiscation*).

7. Proceeds of crime *shall* always be confiscated unless it is manifestly unreasonable (Chapter 36, Section 1, PC). In determining whether it would be manifestly unreasonable to declare the proceeds of crime confiscated, consideration is given *inter alia* to whether the offender will also be liable to pay damages. The *value* of the proceeds may alternatively be confiscated. If proceeds of active corruption are not considered as proceeds of crime in the meaning of the above provision, Section 4 of the same Chapter on confiscation of financial advantages may be applied instead.

8. Instrumentalities or property which are the product of crime or the *value* thereof, *may* be ordered confiscated for the purpose of crime prevention or for other special reasons (Chapter 36, Section 2, PC). Similar provisions on confiscation of instrumentalities are found in special legislation. Confiscation of certain other objects may also be ordered, if there is a risk of these being used for a criminal purpose (Chapter 36, Section 3, PC).

9. Property or the value thereof, subject to confiscation may be exacted from a third party, i.e. any person who, after the crime, acquired the property through the division of jointly held marital property, or through inheritance, will or gift, or who, after the crime, acquired property in some other manner and, in doing so, knew or had reasonable grounds to suspect that the property was connected with the crime (Chapter 36, Section 5, PC). If the sanction can no longer be imposed as a result of, for example, the death of the offender, property may be declared confiscated only if, in proceedings pertaining thereto, a summons has been served within five years of the time when the crime was committed (Chapter 36, Section 14, PC).

10. The burden of proof in cases of confiscation lies with the prosecutor and can never be reversed. This is the case with regard to confiscation of a particular object as well as with regard to the estimation of the amount in value-confiscation. With regard to value-confiscation of financial advantages from crime committed in the course of business, the level of proof is somewhat lower; i.e. "the value may be estimated at an amount that is reasonable in view of the circumstances" (Chapter 36, Section 4). The same applies to confiscation of the proceeds of crime (Chapter 36, Section 1, PC). A decision concerning confiscation is null and void if it has not been executed within ten years of the date when the decision acquired legal force (Chapter 36, Section 15).

[2] In the English translation of the Code the term "forfeiture" is used instead of "confiscation".

11. Confiscated property and corporate fines accrue to the State as a main rule. If the proceeds of crime, corresponding to the damage occasioned to an individual, are confiscated, the State shall pay compensation to the injured party up to an amount corresponding to the value accrued as a consequence of the decision on confiscation. In the enforcement of the decision, the party subject to confiscation shall be entitled to make a deduction for any amount already paid in compensation to the injured party (Chapter 36, Section 17).

12. The GET was informed that it is possible to obtain general information on the total amount of confiscated assets every year, i.e. without reference to the particular type of crime. There are no special statistics available on the use of confiscation with regard to corruption. However, the Anti-Corruption Unit of the Office of the Prosecutor General has provided data concerning corruption cases[3] and has stated that prosecutors, as a rule, would call for confiscation of bribes. The authorities have provided an example of a bribery case in which a sum of approximately 45,000 SEK (approximately 5000 euros) was confiscated from the bribed person.

13. The GET was informed that prosecutors considered that their burden of proof to obtain a confiscation order should be lower. The GET was also informed that the trend in Sweden goes in the direction of using confiscation to a larger extent than in the past. Moreover, a Governmental Commission has dealt with the issue of extended powers concerning confiscation of crime-related proceeds concerning serious offences. The Commission proposed in 2002 that the relevant legislation be amended in order to provide for confiscation of property in cases, such as economic crime and narcotics crime if it is *likely* that the property derives from criminal activity. The GET was told that implementation of the EU Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property was underway and that the proposal of the Governmental Commission would be taken into consideration in this respect.

14. Basic training provided by the Prosecutor General for all prosecutors covers topics such as corruption and confiscation. In addition, special seminars concerning corruption are being organised, the most recent one having been attended by some 100 prosecutors (Åklagardagarna, 2004). Moreover, training on confiscation is provided for by the Economic Crimes Bureau (ECB) on serious and organised economic crime, including corruption. The training of ECB is multidisciplinary, i.e. involving prosecutors, police and financial experts. The GET was informed, however, that within the framework of the specialised Anti-Corruption Unit, no special training on the use of confiscation or seizure had been provided up to the time of the visit of the GET.

Interim measures

15. Seizure as an interim measure is provided for in the Code of Judicial Procedure, Chapter 27. Seizure may be used in relation to proceeds of corruption. Objects reasonably presumed important to a criminal investigation or taken from a person through a criminal act or subject to confiscation may be seized. The provisions concerning objects shall also apply to written documents if nothing else is prescribed. The coercive measures described in this Chapter may be imposed only if the reasons for the measure outweigh the consequent intrusion or other detriment to the suspect or to another adverse interest (Section 1).

[3] Statistics concerning cases of corruption (1 July 2003-25 October 2004): Total number of cases 108, total number of suspects 245. No figures on confiscation.

16. Furthermore, objects revealed in a lawful apprehension, arrest or detention or during a search of premises or of a person or a body examination, may be seized. Objects otherwise found may be seized by order of the investigation leader, i.e. the prosecutor or the police authority. In urgent situations, a police officer may seize objects without a seizure order. A person, other than the investigation leader, who executes a seizure, shall promptly notify the investigation leader, for an immediate decision on whether the seizure shall remain in effect (Section 4).

17. There are rules on the management of seized property. The person carrying out the seizure shall take the object into custody. Any seized object shall be carefully preserved, and strict supervision shall be maintained to ensure that it is not exchanged, altered or otherwise misused. If the object is a substantial amount of money, the sum is normally placed on an interest-bearing bank account (Section 10).

18. The use of seizure is considered within the framework of the criminal investigation of the particular crime. If there is reason to believe that an offence punishable by imprisonment has been committed, property may be searched in order to seize, *inter alia,* proceeds of crime or to detect other information of potential importance to the investigation.

19. Registers on seized assets and objects are kept by the regional police authorities. The total balance is reported every six months to the National Police Board, i.e. without any references to the type of crime. There are no particular statistics available on the use of interim measures in cases of corruption.

Money laundering

20. Money laundering is criminalised according to Chapter 9 of the Penal Code. This crime, "*receiving* and *money-related receiving"*, may be punished with a fine or imprisonment of up to six years. Offences of corruption under the Penal Code are all predicate offences to money laundering, irrespective of whether they have been committed in Sweden or outside its jurisdiction.

21. The Financial Police, which is a division of the Criminal Investigation Department of the National Police serves as the Financial Intelligence Unit (FIU). The objective of the Financial Police is to avert and reveal the criminal activities, based on suspicious transaction reports (STR). In 2003, there were almost 10,000 STR's. If there are reasons to suspect that a crime has been committed, the case is referred to the ECB for preliminary investigation. There are no statistics available concerning investigations, prosecutions or convictions made in relation to the predicate offence of corruption.

22. Credit and financial institutions, holding companies, exchange offices, insurance agents, remittance dealers and life insurance companies are obliged to report any transaction that may reasonably be assumed to constitute money laundering. Work is also under way to implement Directive 2001/97/EC on prevention of the use of the financial system for the purpose of money laundering. A Government Bill on stronger rules against money laundering was adopted in June 2004 and new legislation was expected to enter into force on 1 January 2005[4].

[4] The new legislation implementing the Directive 2001/97/EC entered into force on 1 January 2005.

Mutual legal assistance: provisional measures and confiscation

23. The legal framework for mutual legal assistance, at the international level, is provided by the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, the Criminal Law Convention on Corruption and the 1970 European Convention on the International Validity of Criminal Judgments and, at the national level, by the relevant provisions of Chapter 28 of the Code of Judicial Procedure, the 2000 International Legal Assistance in Criminal Matters Act and the Swedish Act on International Co-operation in the Enforcement of Criminal Judgments. A special Act governs the transfer of enforcement of sentences to and from the Nordic States and "the 1963 Swedish Act concerning co-operation with Denmark, Finland, Iceland and Norway on the enforcement of criminal sanctions", which covers enforcement of confiscation orders for all kinds of crime, including corruption offences.[5] There are also bi-lateral agreements between Sweden and other states. The Swedish authorities have indicated that Sweden can provide legal assistance even without reciprocity.

24. In case a foreign state requests the enforcement of a decision regarding confiscation of property in respect of a person whose property is located in Sweden, the Ministry of Justice passes the request on to the Prosecutor-General or to the competent court unless the request is to be considered by the Government. A request from a EU member state or from Iceland or Norway may be made directly to a competent prosecutor or court. When Sweden is the requesting state, the requests of the court or of the prosecutor to secure abroad the proceeds of offences may be filed through the intermediary of the Ministry of Justice. A request from Sweden to another EU member or Iceland or Norway may be made directly to a competent prosecutor or court.

25. A requirement of dual criminality is imposed in cases where requests refer to certain measures such as search of premises, seizure, transfer of seized property to another state, bodily search, telecommunications interception and monitoring, and covert camera surveillance. Requests for search of premises and seizure from a Member State of the EU or from Iceland or Norway are exempt from this rule.[6] There is no requirement of dual criminality for other measures.

26. It should be mentioned that whereas the possibility for the courts to request legal assistance abroad is fully regulated by law, this area remains vague as far as similar requests by the prosecutors are concerned. Consequently, the prosecutors can request legal assistance abroad and obtain such assistance as permitted by the other state's legislation and/or international commitments that the country has made in relation to Sweden.

b. Analysis

27. The GET was of the opinion that Sweden had a solid legislative framework concerning the possibilities to use confiscation and seizure with regard to proceeds of crime and instrumentalities in general and that this is fully applicable to cases of corruption. Confiscation of the proceeds of crime is mandatory, *in rem* confiscation and value confiscation are possible and property may be confiscated from a third party. Discussions with law enforcement representatives suggest, however, that the rules on the burden of proof may be an important obstacle for the application of these measures in reality. The GET noticed that a Governmental Commission in 2002 had proposed that extended powers be introduced concerning confiscation in serious cases, and was told that the proposal of the Governmental Commission would be

[5] The Swedish National Tax Board is the competent authority to send and receive a request for enforcement of a confiscation order in the Act, and the procedure for execution in Sweden is simplified to only a few regulations laid down in the Act.

[6] It is sufficient that the criminal act in question incurs a prison sentence in the applicant state – Ibid., Chapter 4 Section 20

taken into consideration in the ongoing work to implement the EU Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property.

28. The GET learned that the number of corruption cases in Sweden had increased in recent years (see below) and that confiscation and seizure had been used in corruption cases; the authorities provided some examples. Furthermore, there are only limited statistics available on the use of seizure and confiscation, but the aim in Sweden is to have recourse to these measures to a larger extent in the future. In this respect, the GET recalls the conclusions of the above mentioned Governmental Commission on extended powers concerning confiscation as well as the ongoing work to implement the EU framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property. The GET could not assess to what extent seizure and confiscation are applied in a systematic manner in cases of corruption. *The GET observes that systematic collection of data on the use of confiscation and seizure would be particularly valuable in the present situation where such measures increasingly are being considered important tools in the fight against serious economic crime, including corruption*.

29. Cases concerning corruption are - as a main rule - dealt with by the Anti-Corruption Unit of the Office of the Prosecutor General. Corruption cases may also be investigated and prosecuted by the Economic Crimes Bureau (ECB) when there is a link to serious economic crime (see below) and, by any public prosecutor in minor cases of corruption. The GET discussed with officials of the Anti-Corruption Unit, which had been operational since July 2003. This Unit consisted, at the time of the visit by the GET, of three prosecutors, including the director and his deputy. The Unit was in charge of the investigation of major and difficult cases of corruption. At the time of the visit of the GET, the total number of cases before the Unit was 108 and the number of suspects 245. Most of these cases concerned bribery of employees of the State monopoly in alcohol ("Systembolaget") and some of them corruption in other business relations. The Anti-Corruption Unit appeared to be overburdened with cases. In addition, this Unit was subject to an extensive interest from the media as a result of the cases dealt with. Officials stated that the Unit generally was in need of more resources and, in particular, special training concerning investigation of corruption cases, including the use of confiscation and similar measures, as these had not been applied so often in the past. Moreover, training was particularly necessary as the Anti-Corruption Unit was going to be the central body of "corruption knowledge" for all prosecution districts of the Country. At the same time the GET was informed by representatives of the ECB, that training on investigation of economic crime (including corruption) to a large extent was provided by the ECB and available to the Anti-Corruption Unit. Furthermore, if the ECB, which is a much larger body, consisting of prosecutors, police and financial investigators/accountants (staff of 400), primarily in charge of cases concerning crime against creditors, insider crime, tax crime and organised economic crime, in such investigations comes across suspicions of corruption it will also investigate and prosecute the corruption offence. The ECB also investigates and prosecutes bribery in the private sector. Moreover, the ECB may offer support to the Anti-Corruption Unit with financial or other expertise insofar as resources can be spared. The Anti-Corruption Unit may also obtain support from other branches, such as the Customs.

30. The GET - fully aware that the Anti-Corruption Unit was a fairly young body - could not disregard the caseload of this Unit and the view expressed by its officials that there was a need for specialised training concerning the investigation of corruption offences, with a view, *inter alia*, to making more use of seizure and confiscation in the future. Therefore, **the GET recommends to verify whether the resources available to the Anti-Corruption Unit of the Office of the**

Prosecutor General are adequate[7]**, and to provide specialised training on the use of seizure and confiscation to the prosecutors of that Unit.** Such training should preferably be co-ordinated with relevant training provided elsewhere, for example by the ECB, which is a body of extensive knowledge in this field, not least with regard to the international dimension of corruption and related crime

III. THEME II – PUBLIC ADMINISTRATION AND CORRUPTION

a. Description of the situation

Definitions and legal framework

31. Public administration is defined in the Constitution and encompasses both local and state administrative agencies, including the government offices.[8] The "Administrative Procedures Act" regulates administrative procedures in government agencies and the courts. The Act addresses issues such as the agencies' responsibility for providing information to the public, services, remedies and appeals. The "Government Agencies and Institutions Ordinance" provides a regulatory framework for the management of an agency, the agency's board, employment with the agency and the agency's responsibility as an employer. Both of the above instruments reflect that the agencies enjoy independence vis-à-vis the central government (e.g. in determining their employment policies, representation, etc).

32. There are 290 State Agencies, with some 250.000 employees in total. The management level of an agency usually consists of a director general or a director general supported by a management board. Both the director general and the board are appointed by the Government and are accountable to the Government with regard to internal and external operations of the agency.

Anti-Corruption Policy

33. The fundamental principles aiming at providing a sound public administration in Sweden are laid down in the Constitution and in legislation. These provide the basic rights and liberties. There is no explicit anti-corruption strategy or policy at national level for public administration; however, many fundamental principles of the Constitution are aimed at counteracting corruption and similar activities. For example, there is a ministerial government rule contained in the Instrument of the Government, which prohibits Ministers and the Government from instructing public administration on how to deal with individual cases (förbud mot "ministerstyre"). As a result, public administration in general, and state agencies in particular, have a high degree of independence and decentralisation. The agencies are governed by the Government Agencies and Institutions Ordinance (Verksförordningen), but it is to a large extent up to the individual agencies to ensure that their employees are fully aware of their obligations. Moreover, agencies and public bodies are free to develop their own special anti-corruption policies whenever needed. Any assessment of the effectiveness of anti-corruption measures targeting public administration is carried out by the independent authorities themselves.

[7] In January 2005, the Anti-Corruption Unit was reinforced by a regional prosecutor and during the spring of 2005 the recruitment of a fifth prosecutor and a financial investigator to the Unit was foreseen.
[8] Chapter 1 Article 8, "The Instrument of Government"

Transparency

34. It is a long-standing principle in Sweden that, as a main rule, all documents held by public authorities are available to the public. This principle is one of the corner stones in Swedish public administration and is considered an important feature against maladministration and corruption. The fundamental rules on access to public documents are regulated in the "Freedom of the Press Act", which forms part of the Constitution. The right to access applies as a main rule to all documents held by a public authority (i.e. received or drawn up by the authority). This right may, however, be restricted, but only based on reasons provided for in legislation, i.e. the "Secrecy Act." The Administrative Procedures Act and opinions of the Parliamentary Ombudsman provide further guidance on access to public documents. Public authorities have an active approach when responding to requests from the public; letters receive a written response, telephone requests are answered immediately if possible and e-mails are as a rule be replied to within 24 hours. Training courses on e-governance are provided, *inter alia,* by the National Council for Quality and Development, see below. Documents are as a rule provided free of charge and above a certain limit, at cost price.

35. According to the Constitution (Instrument of the Government, Chapter 7, Article 2) the Government must, when necessary, consult concerned agencies before deciding on a Government matter. Even private associations and individuals shall, when there is a need for it, have the opportunity to provide information before a Government matter is decided. Moreover, an important part of the legislation process is the consultation of concerned parties.

36. The agencies have no consultation obligation prior to their decisions. However, nothing prevents an agency from consulting or allowing the public the possibility to express their opinion in the decision making process. Agencies are expected to consult with the public on issues such as services, quality and opening hours, etc. The aforementioned rules on transparency would apply to this process.

Control of Public Administration

37. According to Section 22a of the "Administrative Procedure Act," it is possible to lodge an administrative appeal before administrative courts. Appeals may be lodged against decisions of administrative authorities (ministries, government boards and agencies, county administrative boards and other government authorities). An appeal shall be submitted to the authority that made the decision. The authority has the possibility to change its own decision in line with what was requested, in which case the appeal will not result in any further measures. If the authority does not alter the decision as requested, it shall pass the matter on to a county administrative court, which is a court of first instance for administrative matters. Furthermore, it is possible to appeal a decision of the county administrative court to the administrative court of appeal and, ultimately, to the Supreme Administrative Court (if leave to appeal is granted).

38. A complaint to the Parliamentary Ombudsmen, established in 1809, can be made by anybody who feels that he or she or someone else has been treated wrongly or unjustly by a public authority or a public official. The Ombudsmen, who are elected by Parliament, ensure that public administration (central and local), public agencies and courts of law, including officials employed, comply with the laws and statutes and fulfil their obligations. The Parliamentary Ombudsmen do not monitor Parliament, the Government, the Chancellor of Justice or members of county or municipal councils. The Ombudsmen's inquiries are based on complaints from the general public, cases initiated by the Ombudsmen themselves and on observations made during the course of inspections. Every year the Parliamentary Ombudsmen receive almost 5,000 complaints, carry

out 10-15 inspections and initiate 100-150 cases *ex officio* (triggered by media, anonymous complaints and during inspections). The Parliamentary Ombudsmen may act as special prosecutors and bring charges against officials for malfeasance or other irregularities. This, however, happens very rarely. The Parliamentary Ombudsmen also have the right to initiate disciplinary proceedings against public officials for misdemeanours. The most frequent outcome is, however, a critical opinion or recommendation (50 per cent of the cases), contained in the yearly publication. The Ombudsmen may assign a public prosecutor to assist in their investigation and may submit cases for criminal investigation to the prosecution service, which happens rarely (in less than 5 per cent of the cases).

39. Another body with a long standing tradition is the Chancellor of Justice, established in 1713. The Chancellor is the Government's legal adviser who represents the State in legal disputes, receives complaints and claims for damages directed to the State and decides on financial compensation. The Chancellor of Justice also has a mandate to ensure that the limits of the freedom of the press (media) are not transgressed and to act as prosecutor in cases regarding offences against the freedom of the press. Moreover, the Chancellor acts as the Government's ombudsman in the supervision of the authorities and the civil servants and takes action in cases of abuse. The Chancellor receives some 3000 complaints annually, most of which concern claims for damage. Very few cases concern corruption; seven cases in the years 1982-1995. The Chancellor receives "a couple of" cases annually concerning alleged violations of the prohibition under the Constitution for public bodies to inquire into the identity of an individual who has provided information to the media on i.a. irregularities within an agency. If there is reason the Chancellor will investigate and prosecute violations of this prohibition.

40. The National Audit Office, which has a new organisation in place since 2003, is an independent body accountable only to Parliament. It is responsible for auditing the operations of the entire State, except regional and local authorities. The National Audit Office is headed by three Auditors General. They decide on what is to be audited and what conclusions to draw following each audit. The annual audits are either carried out as financial audits (60 per cent; accounts and administration) or performance audits (40 per cent; effectiveness and efficiency). This Office cooperates with the Economic Crimes Bureau (ECB) and the Prosecution Service.

41. The auditing of local authorities is carried out on a yearly basis by lay-auditors, elected by the municipal councils. The independence and professionalism of these auditors is subject to discussion. The GET was informed that an expert Commission appointed by the Government presented its findings to the Government in October 2004. The Commission suggests, *inter alia,* that within the existing framework of election of auditors, their independence should be strengthened, for example, through the introduction of rules giving political minority groups the right to select the chief auditor, the introduction of rules on conflicts of interest (auditors may not be members of the municipal council) as well as obligations to include professional auditors to assist the elected ones. This proposal is presently considered by the Government. Reference is also made to GRECO first round evaluation report and compliance report (Greco Eval I Rep (2001) 3 and Greco RC-I (2003) 11).

Recruitment, career and preventive measures

42. The recruitment procedures whether in respect of governmental offices or agencies are normally open and recruitment shall only be based on objective factors, such as service merits and competence. Posts are, as a rule advertised. Rules on recruitment are contained in the Instrument of the Government (Chapter 11, Section 9) (Constitution) and in the Public Employment Act (Section 4).

43. In accordance with the "Security and Protection Act," necessary security measures are taken depending on each agency's type of activity. These measures normally protect against espionage, sabotage and other crime against the Security of the State. A person is obliged to pass a security test (inquiries in criminal registers, etc) before s/he is employed or otherwise takes part in an activity that has significance for the Security of the State.

Training

44. Many public servants have a degree from university and are, to a large extent, familiar with the constitutional and legal framework governing public administration. As a result of the independence of the State agencies special responsibility lies on the agencies to organise in-service training for their employees. In addition, the National Council for Quality and Development (KKR) is available to support the agencies with training, expertise, etc. The KKR, which has a staff of 11 persons, arranges competence development programmes and training on topics, such as ethics, transparency, etc and uses external consultants and lectures to this end[9].

Conflicts of interest

45. According to the Public Employment Act, a public official may not have any other employment or commissions or be active in some other way that may damage the confidence in his/her or any other employee's professional impartiality or the reputation of the agency. An agency would also usually have regulations that stipulate that an employee must inform the agency of his/her other employment. Other or extra employment is usually permitted if it does not affect the employee's ability to perform his/her ordinary job or create conflicts of interest. There are also rules to avoid conflicts of interest in certain situations, e.g. when public officials or their close family have a personal interest in a matter. Regulations on this matter are decentralised and fall within the respective agency's responsibility.

46. There are no general rules on rotation of staff. However, the agencies may use rotation if considered necessary.

47. There are no specific measures in place to control the phenomenon of public officials moving to the private sector. The authorities have, in this respect, referred to rules on secrecy which limit the possibilities for a former public official to use information s/he has obtained in his/her previous position. Revealing information which falls under the laws on secrecy would constitute a violation of professional secrecy which would be criminally punishable. Furthermore, the provisions on insider trading circumscribe a former public official's possibilities to use or disclose insider information received while working in the public administration. Moreover, Swedish provisions on bribery also contribute to controlling public officials moving to the private sector.

Gifts

48. The basic rule on gifts is the penal regulation on passive bribery contained in Chapter 20 Section 2 of the Penal Code. The Ethical Guidelines of the Government (see below) provides clear rules on gifts. The agencies may develop their own guidelines regarding gifts and the GET was informed that most of them have such rules, often combined with disciplinary sanctions.

[9] During 2003 almost 1 500 civil servants attended close to 50 courses organised by the KKR.

Codes of ethics

49. A revised version of the Ethical Guidelines of the Government, was adopted in February 2004. These deal with, *inter alia,* common values and best practice in ethically difficult areas, such as transparency, secondary activities, gifts etc. It is emphasised that ethical matters need to be discussed on a regular basis. The GET was informed that ethical guidelines have been issued by many agencies and local authorities, but no detailed information was provided in this respect.

50. In 2002, the Government established the Commission on Business Confidence (Förtroendekommissionen) entrusted with making surveys of conducts that are damaging the public's confidence in the Industry of the private sector. The Commission drafted a Code of Corporate Governance which was submitted to the Government in May 2004. The GET was informed that this work might also have some impact on the public sector. The GET was also informed about ethical codes of the Anti-Corruption Institute (Institutet mot mutor), a trade and industry non-governmental organisation, established in 1923.

51. As a result of their independence, there are no general guidelines or ethical codes applicable to State agencies. These have to elaborate their own rules and the GET was informed that this is often the case, concerning, for example, official entertainment, the use of alcohol, etc.

52. The authorities have referred to extensive rules with regard to public procurement, contained in the Law on Public Procurement, which to a large extent is built on EU directives. The National Board for Public Procurement is in charge of the monitoring of public procurement in Sweden.

Reporting corruption

53. The Public Employment Act (Section 22) prescribes that a state employee who is reasonably suspected of, *inter alia,* passive bribery, shall be reported for prosecution. This legislation does not cover staff of local authorities. The GET understood that Section 22 rather obliges the employer (the authority concerned) to report the employee. It was not made aware of any legislation or provision obliging public officials in general to report suspicions of corruption. There are, however, particular categories of officials who are obliged to report suspected crimes, including corruption offences; for example, auditors and tax authority staff have a far-reaching obligation to report such suspicions that they come across in the course of their duties. The GET was told that it is an "unwritten rule" that any public official would have a duty to report crime in order to be loyal to the agency and to comply with the contract of employment which interacts with Section 22 above.

54. According to the Constitution an informant has the right to stay anonymous if s/he provides information to the media, and public bodies are prohibited from inquiring about the identity of a whistleblower. Moreover, anyone who reports irregularities to the police can have his/her identity protected up to the point of prosecution. General witness protection measures also apply with regard to public officials. Swedish labour law provides protection to employees, in that dismissal of an employee can only be justified on objective grounds and not as a result of "whistleblowing".

Disciplinary proceedings

55. The National Disciplinary Offences Board decides on disciplinary matters concerning higher public officials (i.e. basically those appointed by the Government and higher employees in agencies). Disciplinary proceedings of other employees are dealt with within the respective agencies. The National Police Board and the National Tax Board have their own disciplinary

bodies. A decision by a disciplinary board may be appealed to the Labour Court, in accordance with the Labour Disputes Act.

56. A disciplinary sanction for neglect of duty may be imposed upon a public employee who intentionally or by negligence does not carry out his/her duties properly. If the neglect, having regard to all the circumstances, is minor, a sanction may not be imposed. The existing disciplinary sanctions are a warning, reduced salary and dismissal. Several disciplinary sanctions may not be imposed on an employee simultaneously. Disciplinary and criminal proceedings may not run in parallel; a disciplinary action must be discontinued once prosecution is initiated. If an act has been considered pursuant to the criminal law system, a disciplinary measure may only be commenced or continued if the act, for some other reason than inadequate evidence, was not considered to comprise an offence.

b. Analysis

57. Sweden has a longstanding tradition of a very solid public administration with a high degree of integrity and transparency; corruption was in the past considered as practically non-existent. This is still to a large extent the perception among the officials met by the GET. At the same time the GET was made aware of a number of cases in recent years where illegal or dishonest activities had attracted great attention in society in general and by the media in particular. In this respect the GET noticed that many public officials met reflected a certain level of awareness of these signals and an understanding for the need to remain alert to such activities which may include corruption.

58. Public Administration and its regulatory framework are well defined in the various parts of the Constitution as well as in legislation, regulations, etc. Despite the fact that there is no general anti-corruption strategy developed, several of the constitutional provisions have a clear bearing in that direction. Ministers are, for example, prohibited in the Constitution from giving instructions to authorities on how to deal with individual cases. Such a "rule of law principle", which is aimed at avoiding other concerns than those expressed by law to influence the decision making process, provides a high degree of independence to the public administration. The Swedish model of public administration is particular in that it provides for many independent State agencies (290), employing some 250 000 people. The agencies are to a large extent only governed by directives of the Government which provide a framework for its activities. It is then up to each agency to develop its policies, internal rules, etc. The GET could see the fundamental reasons and the advantages of this decentralised system, which is also – necessarily - equipped with a variety of accountability mechanisms.

59. Transparency of public administration is an important tool to prevent corruption and a cornerstone of Swedish democracy and administration. The far reaching principle of free access to public information is regulated in the Constitution. These provisions apply to all levels of administration and do not only provide for rights to access all public documents as a main rule, but obliges authorities to supply information to the public. Sweden has also developed a policy on "e-governance", which, *inter alia,* facilitates access to information and makes authorities react speedily on requests from the public.

60. he GET considers that the variety of control mechanisms of public administration, such as the administrative courts, the Parliamentary Ombudsmen, the Chancellor of Justice and the National Audit Office, provide independent protection against maladministration. Moreover, the GET noted

that the independence of the audit at local authority level was under revision[10] and that there was an on-going process to make this as independent as possible in the future.

61. The GET noticed that important work with regard to ethics has been carried out in the private sector, for example by the Anti-Corruption Institute and its members and by the recent Commission on Business Confidence. Moreover, the GET took note with great interest of the revised "Ethical Guidelines of the Government", providing a list of guiding principles in particular situations where a margin of appreciation is left to the individual official. This instrument is aimed at Government officials. The GET found that there is an increasing acceptance of the usefulness of ethical standards and guidelines in the public sector. This should be further encouraged.

62. The GET recalls that the various independent State agencies operate within a well defined legal framework, however, their internal rules and policies are more difficult to assess as these differ from one institution to another. The GET was informed that "soft law", such as codes of ethics/conduct, were developed by each agency alone, following its specific situation and needs and some examples of guidelines were given, for example, within the area of "entertainment". Notwithstanding that the State agencies have different functions and powers, the GET considered that ethical codes/codes of conduct concern an area where consistency should be applied as far as possible. This is important, not least from the perspective of the wider public; matters, such as conflicts of interests, receipt of gifts, reporting of corruption, only to mention a few examples, should preferably be dealt with in a coherent way throughout public administration. The margin of appreciation left to the official ("it may be legal, but not ethically correct") may provide difficult situations where guidelines can be extremely useful. The GET was of the opinion that guidelines similar to those applicable to Government officials should preferably be developed for the whole public administration – without interfering with State agencies' or local authorities' independence - and be widely disseminated to the public. Input from work already carried out in relation to the private sector could also be of interest in this respect. Ethical values change over time and need continued attention, for example, through repeated in-service training, carried out by the authorities themselves. **The GET recommends to establish model codes for the development of consistent standards on ethical behaviour throughout public administration and to promote related training of civil servants.**

63. There is an explicit general rule in the Public Employment Act (Section 22) to report for prosecution a public employee reasonably suspected of passive bribery. This rule obliges the employer (i.e. the state authority) to report its employees in such situations; however, it does not , in the understanding of the GET, bind all public officials to report instances of corruption, nor does this legislation cover all civil servants in Sweden; employees of local authorities are, for example, not covered. The GET accepts that certain special categories of officials, such as taxation officers may be obliged to report suspicions of corruption and that there is possibly an "unwritten rule" for other officials to make such reports. The GET is of the opinion that there should be clear written rules/guidelines for all public officials in this respect. Consequently, **the GET recommends to introduce clear rules/guidelines and training for civil servants concerning the reporting of suspicions of corruption**

64. The GET noted that there are no specific rules or guidelines in place for situations in which public officials move from the public to the private sector and was informed that such situations had been highlighted by Swedish media. Rules on secrecy relating to public officials and the criminalisation of insider trading may have a preventive effect on situations of conflicts of interest,

[10] The GET was aware of the Governmental Expert Commission's Report of the Inquiry concerning local government auditing (SOU 2004:107), containing proposals to strengthen the independence of the local government auditing. The Report was made public on 29 October 2004.

but the ethical aspects of such situations may not necessarily be covered (it may be legal but not ethically correct). The GET considers this an area of concern, in particular in times when public functions come closer to the private sector. **The GET recommends to introduce clear rules/guidelines for situations where public officials move to the private sector, in order to avoid situations of conflicting interests.**

IV. THEME III – LEGAL PERSONS AND CORRUPTION

a. Description of the situation

Definition of legal persons

65. In Sweden, there are five different types of legal persons: limited liability companies, partnerships, co-operative economic associations, trusts and non-profit associations.

a) Limited liability companies (aktiebolag) are formed by one or more founders, physical persons resident in the European Economic Area (EEA) or legal *persons with a registered office in the EEA*. Limited liability companies acquire rights and assume obligations following registration. These may also be a party to legal actions before courts or other authorities. The shareholders are not personally liable for obligations of limited companies. There are two kinds of limited liability companies, private limited liability companies with a minimum legal capital of 100 000 SEK (approximately 11 000 Euros) and public limited liability companies with a minimum legal capital of 500 000 SEK (approximately 55 000 Euros). The shares of the latter may be traded at a stock exchange or any other regulated market place. There are some 300 000 limited liability companies in Sweden, some 1 000 of which are public.

b) Partnerships (handelsbolag) are established when two or more partners agree to exercise business activity together and the partnership has been registered. A partnership may acquire rights and assume obligations. It can also be a party to legal actions before courts or other authorities. The partners are jointly liable for the obligations of the partnership. Partnerships may be limited (kommanditbolag) in terms of the liability of some of the partners only to cover the capital provided by them (limited partner). At least one partner of such a limited partnership must, however, be fully liable for the obligations of the partnership. There are some 110 000 partnerships registered.

c) Co-operative economic associations (ekonomiska föreningar) are established to promote the economic interest of its members through activities in which the members participate as consumers, suppliers or by using the services of the co-operative economic association. Significant for a co-operative is that it complies with certain conditions concerning membership, voting rights and profit dividend. As soon as the co-operative has been registered it can acquire rights and assume obligations. It can also be a party to legal actions before courts or other authorities. The liability is limited to the assets of the association. There are some 12 500 co-operatives registered.

d) Trusts (stiftelser) are created through separation of property to be administrated for a certain purpose. Trusts can be formed by one or more founders. It cannot be created solely to the benefit of the founders themselves. A trust can acquire rights and assume obligations and may also be party to legal actions before courts or other authorities. The liability for the obligations of the trust is limited to the assets of the trust.

e) Non-profit associations (ideella föreningar) have no specific legal framework. Various rules are, however, applicable to these associations, the purpose of which is to promote the economic interest or non profit interest of its members through business or non-business activity. There are approximately 1 000 non-profit organisations registered.

66. Foreign legal persons may register "branches" of their companies in Sweden. These do not acquire "their own" rights and obligations. There are approximately 900 branches registered.

Registration

67. The Company Registers Office is the central registration authority for limited liability companies, partnerships and co-operative economic associations, all of which are required to register. The office receives some 25 000 registration applications every year. Limited liability companies are required to register within six months from the signing of a formation document. The items contained in the registry include, *inter alia,* corporate identity number, business name, address and type of company, business activities, financial year, the way in which to convoke a shareholders' meeting, size of capital and face value of shares. In addition, personal identity numbers, names and addresses of the directors of the board, the chief executive officer and the auditor are registered. Similar registration requirements, though, less extensive, apply to partnerships, co-operative economic associations as well as to trusts and non-profit associations exercising business activities.

68. Trusts and non-profit organisations exercising business activities are normally required to register at the county administrative board. The data maintained in the registry are personal identity numbers, names, addresses and phone numbers of the directors of the board and the administrators of the board.

69. Swedish citizens are always checked at the National Registry during the registration process. Non-Swedish residents who want to register as representatives of limited liability companies and partnerships are required to present copies of their identification documents. The purpose of this measure is to prevent non-existent persons from being registered as representatives. The GET was informed that Sweden is trying to hinder persons or groups of persons engaged in illegal activities, organised crime etc. from establishing companies or associations to shelter their activities. A number of initiatives, in addition to the above-mentioned identity check, to prevent the use of legal persons for illegal purpose are currently being discussed.

70. Whether a concerned person is bankrupt or subject to a trading prohibition, which may be pronounced on a physical person (see below), is automatically checked before a new company is registered.

Limitations on exercising functions in legal persons

71. Under Section 1 of the Trading Prohibition Act (1986:436), a trading prohibition shall be pronounced on a person who, in the capacity of private business operator, has acted in gross disregard of his/her responsibilities as business operator or has, in so doing been guilty of an offence that is not trivial. In making this assessment, it is also required that a prohibition is called for in the public interest. Hence, the requirement shall be not only that the irregularities that have occurred are very serious in themselves, but also that there is manifest reason, on an overall assessment, to impose a prohibition. Account shall be taken not only of the improprieties that have occurred but also of other factors, such as how the business has been run in general. Special consideration shall be given to whether the abuse has been systematic, whether it has

entailed significant damage and whether it has continued after the business operator in question was convicted of a business offence. The provision also extends to certain persons who in this connection should be equated with business operators, for example, persons who remain in the background and whose activities are formally carried on by someone else. Such a prohibition is registered; 630 persons were under trading prohibition at the time of the visit by the GET. The Registry is open to the public.

72. A person who is subject to a trading prohibition may not be a partner in a trading partnership, nor may s/he be a founding member of a limited company, a limited banking company, a savings bank or an insurance company, nor may s/he be a member or alternate member of the board of any such company. Furthermore, s/he may not be managing director or deputy managing director of a limited company or an insurance company. Nor may s/he own a substantially controlling number of shares (exceeding 50 per cent of the votes) in a limited company, a limited banking company or an insurance company.. A trading prohibition can be pronounced for a specific period of three to ten years (Section 5) and excludes the possibility of running any business activity (Section 6).

Liability of legal persons

73. Under Swedish law, only natural persons can commit crimes. Nevertheless, there is a system to sanction legal persons. When a crime is committed by somebody belonging to the legal person, it may result not only in a penal sanction on the physical person, but also on the legal person. If a crime is committed in the exercise of business activities, amounting to gross disregard of the special obligations associated with business activities or if it is otherwise of a serious kind and the legal person has not done what could reasonably be required to prevent the crime, the legal person can be held liable to pay a corporate fine (Penal Code Chapter 36, Section 7[11]). This also covers lack of supervision or control by a natural person who has a leading position within the legal person. There need not be any benefit of the crime in order to impose a sanction and the perpetrator must not necessarily be identified. There will be no liability in case the offence is directed against the legal person itself, or where the imposition of a fine would be manifestly unreasonable. The proceedings can be dealt with within the same proceedings as those of the natural person.

74. Rules on *civil liability* are also found in the Tort Liability Act. In particular, any person who causes financial loss by an act that is punishable under criminal law (e.g. active and passive bribery) is liable to pay compensation for such loss. If the financial loss is caused in the course of employment, the employer can be liable to pay compensation. This means that if the principal of a person who has taken a bribe is damaged by the bribe, the persons held liable for the criminal offences can be ordered to pay compensation. If the employee has committed a criminal offence, his or her principal can be held liable to pay compensation. There are also provisions on liability in special legislation, e.g. in the Act on Public Procurement and in the Marketing Practices Act.

[11] Chapter 36, Section 7 of the Penal Code reads: *For a crime committed in the exercise of business activities the entrepreneur shall, at the instance of a public prosecutor, be ordered to pay a corporate fine if:*

1. *the crime entailed gross disregard for the special obligations associated with the business activities or is otherwise of a serious nature, and*
2. *the entrepreneur has not done what could reasonably be required of him for prevention of the crime.*

The provisions of the first paragraph shall not apply if the crime was directed against the entrepreneur or if it would otherwise be manifestly unreasonable to impose a corporate fine.

Sanctions

75. The only penal sanction, for a legal person, is a corporate fine (10 000 – 3 000 000 SEK, approximately 1 100-330 000 Euros). If a representative or an employee of a company commits a crime, e.g. active bribery or money laundering, corporate fines can be imposed on the legal person.

76. An applied sanction remains regardless of an institutional change of the legal person. In particular, rules have been established to protect creditors (including the State), in case of a company takeover. Moreover, it is possible for a creditor, under certain circumstances, to hinder a company merger if that could risk the value of the claim.

77. The National Council for Crime Prevention (BRÅ) keeps limited statistics on the use of corporate fines, which provide minimum figures on the use of such fines[12]. The statistics available provide an approximation of the number of cases per year, without specifying the type of crime. There is no registry equivalent to a criminal record, however, the National Police Board keeps information on the use of corporate fines.

Tax deductibility

78. Chapter 9 Section 10 of the Income Tax Act explicitly stipulates that expenditure for bribes and other illicit rewards are not deductible. This provision was introduced in 1999.

Tax authorities

79. It follows from Section 22 of the Tax Assessment Regulation that tax authorities are obliged to report to the prosecutor as soon as there is reason to suspect that bribery has been committed. However this provision does not apply if it can be anticipated that the act will not lead to punishment or if, for other reasons, reporting is not needed. When reporting to the prosecutor, the tax authority shall indicate the circumstances on which the suspicion of crime is founded. Generally, it is a primary task of the tax authority to assist in investigating tax crime under the Law on Tax Crime.

80. The police or the prosecutor has full access to tax records that may be needed for preliminary criminal investigations.

Accounting Rules

81. According to the Swedish Book-Keeping Act, all types of legal persons are obliged to maintain accounting records. Limited liability companies, partnerships, in which at least one of the partners is a legal person, and co-operative economic associations are, in addition, required to present an annual report. Trusts are, under certain conditions, subject to the same requirements.

82. The use of invoices or other accounting documents containing false or incomplete information is criminalised as using false documents (Chapter 15, Section 11, PC). The penalty is a fine or imprisonment of up to two years. The use of double invoices can also be a book-keeping crime (Chapter 11, Section 5, PC) comprising a penalty of imprisonment of up to four years[13].

[12] The statistics indicate that corporate fines were used in 36 cases in 2001, in 32 cases in 2002 and in 48 cases in 2003.
[13] A Government Bill proposing to extend the maximum penalty for book-keeping crime to imprisonment of up to six years was at the time of the adoption of this report considered by Parliament.

Role of accountants, auditors, and legal professionals

83. It is mandatory for most legal persons to have an auditor. The auditor of a *limited liability company* must be an authorised public accountant or an approved public accountant. At least one of the auditors of a *partnership* – in which at least one partner consists of a legal person –of a *co-operative economic association*, of a *trust*, or of *another legal person required to present an annual report* must be an authorised public accountant if the net value of the assets for the two preceding financial years exceeds a limit corresponding to at present 4 000 000 Euros or the average number of employees of the company during the two preceding financial years has exceeded 200. Auditors follow the international standards of auditing.

84. The auditor of a limited liability company is obliged to report suspicions of criminal offences, including corruption offences, to the board and the public prosecutor. Auditors of other associations are in some specific cases obliged to report to the tax authorities. As mentioned above (Theme 1), there was at the time of the visit by the GET an ongoing work on implementing the EU Second Directive on Money Laundering (2001/97/EC)[14]. With the implementation of the EU Second Money Laundering Directive into Swedish legislation, accountants, auditors and legal professions are being included in the regulated sector with obligations to report suspicions of money laundering with regard to all crimes including corruption.

b. Analysis

85. The notion of legal persons is well defined and there is a variety of different legal persons provided for in Swedish legislation. Virtually all of them are subject to registration, at the Company Registers Office or at the county administrative boards. The registers contain the relevant data of legal persons and all information stored is available to the public as the same rules on transparency apply in this respect as in any other public administration.

86. It is of crucial importance that the information available is correct and reliable. This is particularly significant with regard to the prevention of legal persons being used to shield inappropriate activities, such as corruption. A thorough control of data submitted to the registration authorities is therefore necessary, but at the same time it must be taken into account that the registration authorities have a large number of registrations to deal with. Consequently, there is a balance to be struck between an efficient registration system and important public interest protection to avoid that companies become vehicles for criminal activity. In this respect, the GET noticed that the control of information submitted to the registration authorities, although mainly of a formal nature, also includes material checks, such as the identity of founders, whether these appear in bankruptcy registers or are subject to trading prohibitions. Moreover, the GET noticed an awareness that sometimes companies were registered in Sweden to cover up illegal activities, organised crime, etc and that this problem was under scrutiny by the authorities.

87. According to Swedish legislation, only physical persons can commit crime. However, the fact that criminal liability of legal persons does not exist,[15] does not exclude that a legal person – in addition to a physical perpetrator - may be subject to a criminal sanction. When a physical person acts on behalf of the legal person, in instances of bribery and money laundering[16], the legal person may be subject to a ”corporate fine”. Situations of lack of supervision by a natural person

[14] The new legislation implementing the Directive 2001/97/EC entered into force on 1 January 2005.
[15] GET learned after the visit that the possibility of introducing criminal responsibility for legal persons was under consideration in Sweden.
[16] Sweden made a reservation against the undertaking to introduce criminal provisions for trading in influence, when ratifying the Criminal Law Convention on Corruption.

holding a leading position of a company is also covered. Moreover, a legal person may always be liable for tort. The GET was of the opinion that the Swedish rules on "corporate liability" are in compliance with the requirements of Article 18 of the Criminal Law Convention on Corruption, which does not exclusively require criminal liability, but also other forms of liability.

88. "Corporate fines", may, according to the law, never exceed 3 000 000 SEK (approximately 330 000 Euros). The GET found this limit very low, in particular, in comparison with the fact that Sweden is a country of many big companies. Moreover, a recent corruption case - mentioned by the Swedish authorities - involving bribes and/or other types of illicit money in the range of 10 000 000 SEK, illustrates the situation. The authorities mentioned that in particular situations, such as in public procurement proceedings other sanctions may exist, but they did not indicate that any other type of generally applicable penal or similar sanction on legal persons was available. Therefore, the GET was of the firm opinion that the stipulated sanction may not be proportionate in certain situations, nor dissuasive as required by Article 19 of the Criminal law Convention on Corruption (for example, in cases of corruption involving larger companies and/or values)[17]. Moreover, the GET also noticed that there is no registry kept for the use of "corporate sanctions", and the authorities only provided rudimentary statistics in this respect. Such a registry could serve a purpose similar to that of the criminal record of physical persons.

89. **The GET recommends to reconsider existing rules concerning "corporate liability" with a view to introducing effective, proportionate and dissuasive sanctions for legal persons involved in corruption and to examine the advisability of establishing a registry on the use of corporate sanctions.**

V. CONCLUSIONS

90. Sweden has a well developed legislation and law enforcement system. The recent establishment of a unit specialised in investigating cases of corruption is still in a developing stage and in need of further support and training. The use of measures such as confiscation and seizure is likely to increase in the future. Swedish public administration has a longstanding tradition of carrying out its duties and providing services with a high degree of integrity governed by law. It appears that the development of ethical norms and professional standards as a complement to legislation is on its way. This should be further encouraged, in particular to provide for consistency throughout public administration, bearing in mind the independence of State agencies and local authorities. Moreover, there is a developed system of legal persons; their establishment, etc. However, corporate sanctions could be strengthened.

91. In view of the above, GRECO addresses the following recommendations to Sweden:

i. **to verify whether the resources available to the Anti-Corruption Unit of the Office of the Prosecutor General are adequate, and to provide specialised training on the use of seizure and confiscation to the prosecutors of that Unit** (paragraph 30);

ii. **to establish model codes for the development of consistent standards on ethical behaviour throughout public administration and to promote related training of civil servants** (paragraph 62);

[17] In this connection, the GET learnt after the visit that that the Government was considering proposing an extension of the maximum corporate fine from 3 000 000 SEK to 10 000 000 SEK.

iii. **to introduce clear rules/guidelines and training for civil servants concerning the reporting of suspicions of corruption** (paragraph 63);

iv. **to introduce clear rules/guidelines for situations where public officials move to the private sector in order to avoid situations of conflicting interests** (paragraph 64);

v. **to reconsider existing rules concerning "corporate liability" with a view to introducing effective, proportionate and dissuasive sanctions for legal persons involved in corruption and to examine the advisability of establishing a registry on the use of corporate sanctions** (paragraph 89).

92. Moreover, GRECO invites the Swedish authorities to take account of the *observation* (paragraph 28) in the analytical part of this report.

93. Finally, pursuant to Rule 30.2 of the Rules of procedure, GRECO invites the Swedish authorities to present a report on the implementation of the above-mentioned recommendations by 30 September 2006.