



Groupe d'Etats contre la corruption  
*Group of States against corruption*



COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE

**DIRECTORATE GENERAL I – LEGAL AFFAIRS**  
**DEPARTMENT OF CRIME PROBLEMS**

## **Second Evaluation Round**

### **PROVISIONS UNDER EVALUATION**

#### **Evaluation procedure**

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The GRECO has selected, in conformity with Article 10 paragraph 3 of its Statute, the provisions that will be evaluated in the framework of the second evaluation round of GRECO:

- the application of **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), by **Articles 19 para. 3, 13 and 23** of the Convention;
- the application of **Guiding Principles 9** (public administration) and **10** (public officials);
- the application of **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.

The Guiding Principles selected

**Guiding Principle 4**

"to provide appropriate measures for the seizure and deprivation of the proceeds of corruption offences"

**Guiding Principle 5**

"to provide appropriate measures to prevent legal persons being used to shield corruption offences"

**Guiding Principle 8**

"to ensure that the fiscal legislation and the authorities in charge of implementing it contribute to combating corruption in an effective and co-ordinated manner, in particular by denying tax deductibility, under the law or in practice, for bribes or other expenses linked to corruption offences"

**Guiding Principle 9**

"to ensure that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness"

**Guiding Principle 10**

"to ensure that the rules relating to the rights and duties of public officials take into account the requirements of the fight against corruption and provide for appropriate and effective disciplinary measures; promote further specification of the behaviour expected from public officials by appropriate means, such as codes of conduct"

**Guiding Principle 19**

"to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account"

The Articles of the Criminal Law Convention selected

- [All about this Convention](#)

**Article 13 - Money laundering of proceeds from corruption offences**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime (ETS No. 141), Article 6, paragraphs 1 and 2, under the conditions referred to therein, when the predicate offence consists of any of the criminal offences established in accordance with Articles 2 to 12 of this Convention, to the extent that the Party has not made a reservation or a declaration with respect to these offences or does not consider such offences as serious ones for the purpose of their money laundering legislation.

## **Article 14 - Account offences**

Each Party shall adopt such legislative and other measures as may be necessary to establish as offences liable to criminal or other sanctions under its domestic law the following acts or omissions, when committed intentionally, in order to commit, conceal or disguise the offences referred to in Articles 2 to 12, to the extent the Party has not made a reservation or a declaration:

- a creating or using an invoice or any other accounting document or record containing false or incomplete information;
- b unlawfully omitting to make a record of a payment.

## **Article 18 - Corporate liability**

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for the criminal offences of active bribery, trading in influence and money laundering established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a power of representation of the legal person; or
- an authority to take decisions on behalf of the legal person; or
- an authority to exercise control within the legal person;

as well as for involvement of such a natural person as accessory or instigator in the above-mentioned offences.

2 Apart from the cases already provided for in paragraph 1, each Party shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of the criminal offences mentioned in paragraph 1 for the benefit of that legal person by a natural person under its authority.

3 Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators of, or accessories to, the criminal offences mentioned in paragraph 1.

## **Article 19 - Sanctions and measures**

2 Each Party shall ensure that legal persons held liable in accordance with Article 18, paragraphs 1 and 2, shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

3 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with this Convention, or property the value of which corresponds to such proceeds.

## **Article 23 - Measures to facilitate the gathering of evidence and the confiscation of proceeds**

1 Each Party shall adopt such legislative and other measures as may be necessary, including those permitting the use of special investigative techniques, in accordance with national law, to enable it to facilitate the gathering of evidence related to criminal offences established in accordance with Article 2 to 14 of this Convention and to identify, trace, freeze and seize instrumentalities and proceeds of corruption, or property the value of which corresponds to such proceeds, liable to measures set out in accordance with paragraph 3 of Article 19 of this Convention.

2 Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in paragraph 1 of this article.

3 Bank secrecy shall not be an obstacle to measures provided for in paragraphs 1 and 2 of this article.