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Assessment of the rules controlling  
risks of corruption and conflicts of interest  
of the Conference of INGOs of the Council of Europe

Expertise provided by GRECO  
under Rule 21.3 of its Rules of Procedure<sup>1</sup>

Adopted by GRECO on 18 October 2017

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<sup>1</sup> The present expert opinion was provided at the request of the President of the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe, sent by letter to the Chair of GRECO on 3 February 2017.

## Introduction

1. Following the response of the Parliamentary Assembly to allegations of corruption that might have affected certain activities and involved non-governmental organisations, the Council of Europe's Conference of International Non-Governmental Organisations (INGOs) decided, for its part, to reinforce its preventive mechanisms in 2017 and therefore agreed to revise the texts governing its functioning.

2. In a letter dated 3 February 2017, Ms Anna Rurka, President of the Conference, requested an expert appraisal from GRECO concerning measures that could be taken by the Conference to reinforce its own provisions and better protect against risks of corruption and conflicts of interest.

3. The request was accepted, and the present expert appraisal is provided on the basis of Rule 21.3 of GRECO's Rules of Procedure. The following sources were used:

- the texts governing the functioning of the Conference and more generally the information available on-line on the Conference;
- replies to a questionnaire sent out by the Conference Secretariat to the Conference's member organisations: thirty or so replies were received;
- interviews (particularly with the Secretariat, the President of the Conference and the Verification and Dispute Committee).

4. The replies to the questionnaire bear witness to the diversity of INGOs holding participatory status<sup>2</sup> with the Council of Europe. The extent of their involvement with the Council of Europe inevitably tends to vary (for one thing depending on the resources they have), with some INGOs restricting their activities to the framework of the Conference alone while others state that they have parallel involvement in the activities of intergovernmental committees of the Council of Europe or the Parliamentary Assembly, among others. It should also be borne in mind that some INGOs, while not members of the Conference, are involved and participate in the work of the CoE, including in advocacy or lobbying (of members of the Parliamentary Assembly for example).

5. The information gathered shows that the perception of risks linked to undue influence and conflicts of interest and also the apparent level of awareness of this issue vary considerably. However, it also shows that very few organisations seem to have a clear policy (or, in several cases, ethics rules either) on integrity in activities representing the NGO outside and the conduct of members/representatives.

6. Regarding the risks of corruption and more generally breaches of integrity to which the Conference would be exposed – and which could affect its reputation or functioning – it should be borne in mind that the present exercise has its limits. In particular, the volume of replies to the questionnaire (in view of the total number of around 300 INGOs participating in the Conference) provides what is probably only a partial snapshot of the perceived concerns and problems. As pointed out in section 2 on rules of conduct, the analysis could usefully be refined by the Conference itself in the light of what it knows of the risks (potential or proven), and the rules of conduct will have to be adapted/adaptable accordingly over time, in relation to the new issues identified.

7. In all events, the sum total of information gleaned from the replies and interviews helped to pinpoint two problematic phenomena, namely:

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<sup>2</sup> Small structures with a volunteer base, large structures with salaried employees and rules of conduct for their members and staff, structures registered as lobbies or at least entered in the Transparency registry operated jointly by the European Parliament and the European Commission since 2011 etc.).

- the case of individuals using their function of representation to the Conference, or their responsibilities within the Conference, for personal ends or proselytism (instrumentalisation of the function, self-promotion, exceeding authority), sometimes combined with abuse or misappropriation of the Council of Europe's image;
- the case of INGOs alleged to be "disguised" lobbies serving other interests and/or pursuing aims (including aims linked to national interest) that differ from those stated.

8. In view of the findings, four possible lines of action may be defined and are described in detail below.

#### 1. Overall transparency of activities

9. More generally, there was also criticism of the lack of transparency in the functioning and use of Conference resources allocated to its activities.

10. With regard to the reporting of activities, this is done by means of a general (annual) activity report of the Conference and of specific reports produced by the three thematic committees: Human Rights Committee; Democracy, Social Cohesion and Global Challenges Committee; Education and Culture Committee. The latter are published separately but also as an annex to the general activity report. These reports do not deal with financial matters or the use of resources.

11. Another set of reports, on the other side, relates to the management of part of the Conference's funding through the non-profit INGO-Service Association registered under French law. The funding of the Conference is indeed provided by the general ordinary budget of the Council of Europe (approx. 150 000 euros) and to a lesser extent (approx. 35 000 euros) formed from annual subscriptions and voluntary contributions from member INGOs as well as from a special grant of the Council of Europe. These resources which complement the general budget contribution are collected and managed by the above Association. These amounts are used to finance activities and the functioning of Conference bodies including monthly allowances paid to the Presidency (800 euros), attendance at meetings of the Association (General Assembly and executive board) and activities of the three specialised committees – each one receiving approx. 3 000 euros per year from the budget of the Association.

12. But, when all is said and done, there is no consolidated document on the use of the Conference's resources, and where the funds managed by INGO-Service are concerned, the information is not accessible on-line<sup>3</sup>.

13. Transparency in the running of activities and financial management is a key component of any internal policy relating to integrity:

- by discouraging untoward conduct, all the more so when resources are in short supply and this may give rise to a degree of "competition" over their use;
- by reducing the risks of counter-productive questioning or criticism;
- by making it possible to account to all the organisations and players directly concerned (in this case, for example, the organisations/individuals participating in the activities of the Conference).

14. The principle of drawing up a consolidated report reflecting as far as possible all the Conference's activities as well as indicating how funding is used is worth developing.

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<sup>3</sup> The minutes of meetings of the INGO-Service Association sometimes refer to an appended financial document but this does not appear in the on-line version of the minutes.

For transparency's sake there should also be reporting of the different forms of support provided to the Conference, including on an ad hoc basis, such as costs covered by third parties. This would make it possible to report comprehensively on the action carried out, using a unified framework for all the fields of activity of the different committees – currently the committees report back in different formats on their activities. In particular, it should be pointed out that the INGOs are required to contribute to the visibility of the Council of Europe and the dissemination of information on its activities and standards<sup>4</sup>, which is done in different ways (one of the committees is behind a site seemingly representing the Council of Europe which is unofficial, despite the address and the symbols it uses<sup>5</sup>).

15. It is also desirable to provide a means of better reporting all the actions carried out by Conference organs with leadership, representative and/or management functions in respect of participation in outside events or meetings. In general, it is important that dealings that have been less visible, outside the conference perimeter, are known to its members, and all the more so when they involve the leaders of the Conference or its committees, whose influence over the work may be decisive.

Recommendation:

Ensure that a consolidated annual report accounts in sufficient detail on the actions carried out by the Conference's different components and organs, as well as the use of funding regardless of its source and form (direct or indirect support).

## 2. Rules of conduct for the members of the Conference

16. This is an important area, where progress is both possible and desirable. Notwithstanding the existence of [Resolution CM/Res\(2016\)3 on participatory status for international non-governmental organisations with the Council of Europe](#) and the [Code of Good Practice on Civil Participation in the Decision-Making Process](#), the principles they set out are only moderately reflected in the rules governing the functioning of the Conference itself and its rules of procedure. So while there are rules of conduct in the [Communication charter of the Conference of INGOs of the Council of Europe](#) – such as obligations of responsibility, transparency and respect for confidentiality, the charter remains limited in scope given its specific purpose. The lack of a body of rules of a more general scope, such as a code of conduct, is a gap that must be filled.

17. The Conference could firstly draw on the content of rules of conduct adopted by some of its member organisations: several NGOs replying to the questionnaire (especially the larger ones) already have rules geared to sound governance and controlling risks for reputation and other aspects in members' activities involving management, representation and external interaction. In addition, there are pointers to be found in model texts of international origin, such as the [Code of Ethics and Conduct of NGOs](#), adopted under the auspices of the *World Association of Non-Governmental Organizations* (WANGO). In that text, for example:

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<sup>4</sup> Paragraph 4 of the Rules for participatory status stipulates that INGOs enjoying participatory status shall undertake to *inter alia*:

- "give maximum publicity to the initiatives and achievements of the Council of Europe in their own field(s) of competence;
- disseminate information on Council of Europe standards, instruments and activities, to their members, on a regular basis, and ensure that they too work actively to fulfil the requirements of the participatory status;"

<sup>5</sup> <http://www.democracy-coe.org/>

- section I of the Code sets out principles referring to responsible management (Section A), transparency and accountability (Section E), honesty and truthfulness, including opposition to corruption, bribery and other financial illegalities, while also encouraging the reporting of misconduct to governing bodies (Section F)
- section II reiterates *inter alia* that, by its nature, a non-governmental organisation may not act as a paid agent or under the control/orders of a government and must remain politically independent (Section B) and also remain independent of donors and business-sector entities (Section D);
- section III points out that the fundamental mission must be clearly defined and stated and that the activities carried out must be consistent with it (Sections A and B)
- section IV stresses sound organisational and budgetary governance, including the adoption of a code of ethics and conduct by governing bodies, and proper management of conflicts of interest (Sections C and E).

18. Secondly, the Conference broadly follows the operating principles of an assembly: holding of sessions, including side events, organisation into a standing committee and thematic committees, all supervised by a presidency and a bureau. For the content of a code of conduct, the Conference could therefore draw inspiration from the codes or rules of conduct adopted by assemblies of a parliamentary nature, including international forums such as the Parliamentary Assembly of the Council of Europe (PACE). It should be noted that GRECO recently made public its assessment of arrangements at the PACE<sup>6</sup>, which should enable the Conference to identify a number of additional good practices (consistency of rules, clear indication of the consequences of certain situations such as conflicts of interest etc).

19. Leaving aside certain matters specific to the exercise of a parliamentary mandate<sup>7</sup>, the texts applicable to assemblies more often than not seek to:

- reiterate the moral qualities expected from members (exemplary behaviour/professionalism, probity, responsibility, non-discrimination etc.);
- ensure correct use of the resources and infrastructures available;
- prevent conflicts of interest and handle them should they arise: the idea here is to both ensure transparency before any issue arises (with a system of systematic declaration of financial interests and parallel activities, to be made as soon as a person takes office) and subsequently resolve any conflict arising in practice, particularly as a result of exercising special responsibilities (for example reporting the conflict, abstaining where necessary etc.);
- specify the degree of independence and loyalty expected – especially in dealings with third parties external to the assembly which might seek to influence proceedings (including pressure groups);
- specify the course of action to be taken when certain benefits are offered (gifts, hospitality, awards, financial support and sponsoring etc.);
- establish rules that may be specific to the exercise of certain functions carrying high responsibility (presidency) or specific activities and missions (rapporteur, committee chair etc.).

20. These are provisions aimed at protecting the institution itself and its activities and preventing acts of corruption.

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<sup>6</sup> See <http://www.coe.int/fr/web/greco/-/council-of-europe-anti-corruption-body-greco-issues-critical-assessment-of-the-parliamentary-assembly-integrity-framework>

<sup>7</sup> Such as any professional restrictions after the end of the mandate or the incompatibility of and conditions for engaging in ancillary activities, or possible restrictions on the concluding of tenders and contracts with the State during the mandate

21. Thirdly, the Conference of INGOs could draw on the codes regulating the external activities of organisations involved in advocacy or lobbying work<sup>8</sup>. The principles they set out often mirror some of the above rules for parliamentarians. For example:

- when making contact with talking partners, having to comply with any applicable rules covering this point, including properly identifying oneself;
- communicating accurate information when requested by talking partners and taking steps in particular to avoid misleading them;
- refraining from certain practices identified as problematic in the specific context of the organisation and its field of intervention (eg not offering remuneration for speaking at colloquies and other events, advertising or commercial practices);
- not misusing the status or image linked to the capacity of observer, advisory body or lobbying organisation;
- where rules on documents are concerned, respect for the confidentiality of documents classified as such and passed on within the framework of consultations, and limitations on the manner of accessing such documents (not using illegitimate means);
- complying with any rules on transparency with regard to invitations (informing the general services or persons in positions of responsibility).

22. All these texts can provide a source of inspiration both for the content of a code of conduct for representatives of the Conference's member organisations and for the revision of the Conference's internal mechanisms, particularly regarding questions of good governance, transparency and the Conference's own accountability, as seen in the *Code of Ethics and Conduct of NGOs* adopted by the WANGO.

23. The content of a code is always determined in relation to the institution's specific characteristics and its members' activities; it is not a good idea to import a ready-made model from outside. The code must take account of the levels of risk and be adapted to cater for a changed situation (new activities, new problems identified), as previously emphasised. This means that:

- work must be carried out in parallel to analyse and inventory the types of risk situation;
- the future text on conduct within the Conference is not set in stone forever but may still be easily adapted and/or made more specific.

24. A coherent, consolidated text will be simpler to apply in practice and more easily understood by those it is aimed at. The Rules of procedure could expressly refer to it (as a separate text or as an appendix), which would make it possible to link the content of the rules with the supervision mechanism dealt with below.

25. Finally, the content of a code must be both sufficiently broad and general to cover a wide range of situations and sufficiently practical for those governed by its obligations to be able to turn to the text for guidance. Illustrating the text with concrete examples of situations and how to respond to them makes the code a more practical instrument.

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<sup>8</sup> See for example the [code of conduct adopted within the framework of the 2014 Interinstitutional Agreement of the European Union](#) and the principles promoted by [Recommendation CM/Rec\(2017\)2](#) of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making.

Recommendation:

Draw up a code of conduct for the members of the Conference, which would be periodically updated and include concrete examples of good practices and how to handle problem situations.

### 3. Supervision mechanisms

26. Under the currently applicable texts, supervision is exercised at two levels: at the general level by the Council of Europe, and at the level of the Conference itself, where its operational functioning is concerned.

27. In accordance with the participatory status, each INGO is asked, among other things, to produce a special report every four years allowing the Council of Europe to check that the organisation continues to fulfil the conditions required to enjoy consultative status. The Secretary General may decide to withdraw participatory status in the event of an INGO not fulfilling general commitments (including if it no longer actively participates in the sessions and work of the Conference) or failing to meet/no longer meeting the requisite conditions (respecting and defending the values and principles of the Council of Europe, having a democratic structure and governance, supporting closer unity between countries etc). This arrangement makes it possible in principle to exclude an organisation whose activities are incompatible with the Conference's purpose or akin to the problematic conduct reported in the replies to the questionnaire and during the interviews (see introduction).

28. The decision to implement the withdrawal procedure lies with the Secretary General of the Council of Europe. It is reasonable to assume that the organs of the Conference still have the power to refer such a matter to the Secretary General, even though the texts say nothing on this point. Accordingly, the arrangements for initiating the procedure and the respective roles of the conference organs should be specified in the Conference's Rules of procedure.

29. On the subject of occasional disputes (and therefore also the individual conduct of INGO members), the Verification and Dispute Committee, set up by the [Conference's Rules of procedure](#) in its version of 24 June 2016, is competent to:

- supervise the electoral process within the Conference;
- settle disputes relating to the Rules of procedure;
- settle disputes more broadly concerning the functioning of the representative bodies.

30. It also exercises another important function not provided for in the Rules of procedure but established by the Conference's [Communication Charter](#) adopted in January 2016, which is to ensure compliance with the principles set out in the charter. These include, in section 4, a number of stipulations limiting the risks of misappropriation of communication. The Presidency and the Secretariat of the Conference may challenge a member in the event of non-compliance but the dispute will be settled by the Verification and Dispute Committee. The Committee may also refer the matter to the Standing Committee if it considers that it is not competent to adjudicate or if the dispute persists (which may be understood as a refusal of the person concerned to comply with an opinion of the Committee). The Standing Committee plays the role of an ethics committee in such a case.

31. This fairly flexible provision, which has already been used to put an end to certain conduct or call members to order, is to be welcomed. It could be extended to ensure

respect in future for any rules on conduct and integrity that the Conference might adopt. As the Charter has to be rewritten owing to the obsolete references it contains in section 2, the supervision mechanism could be taken out of section 6 and merged with the provisions of the Rules of procedure to ensure consistency<sup>9</sup>, through a single supervision procedure applying to the full spectrum of Conference members' obligations.

32. It is also important for the rules to be sufficiently clear and predictable so that disputes can be adjudicated and sanctions imposed. Here too, improvements are required. The "Strategic Plan of communication" which the Charter cites as a reference text for adjudicating disputes in this specific area cannot be found anywhere on the Conference's website<sup>10</sup>, and the current texts do not clearly specify the measures which, as things stand, are applicable in disciplinary matters, examples being the withdrawal of the right to vote (applied little or not at all as it is not in keeping with the spirit of the Conference) or the exclusion of the individual from a committee. The Conference might also consider the expediency of introducing a provision whereby a member NGO could be requested to discipline or replace a representative in the event of serious shortcomings.

Recommendation:

Introduce a consolidated and clear set of provisions i) to ensure compliance with Conference members' obligations, including future rules of conduct, and ii) to refer a proposal to withdraw participatory status to the Secretary General in the most serious cases where actions damage the reputation of the Conference and the Council of Europe.

#### 4. Awareness of the rules of conduct

33. Beyond the introduction of an effective supervision mechanism, the effectiveness of rules – including those established by a code of conduct – also largely depends on the extent to which people are aware of them. As the information gathered for the present expert appraisal has shown, questions of integrity and good governance in the INGOs generally constitute a topic that is either new or at least touched upon little in the statutory and regulatory texts of those organisations (with the notable exception of certain large organisations).

34. Given the Conference's specific characteristics and resources, overly ambitious arrangements are probably difficult to justify. That said, there are simple good practices, such as laying on occasional presentations and sending out copies of the rules to each member, asking them to confirm in writing that they have received them and undertake to abide by them. Another good practice is to establish or specify a person or persons who may be consulted for advice on good conduct and the application of a given obligation in a concrete situation. This advice must normally be provided on a basis of trust (and confidentially, where necessary). Particularly if the future rules of conduct call for compliance with certain consultation procedures or obligations incumbent on other categories of individuals within the Council of Europe with whom the Conference or its members interact, awareness-raising efforts will also have to be made regarding the rules applicable to those individuals. Specifically where members of the Parliamentary Assembly are concerned, as pointed out in the introduction, that institution has launched a process to review its provisions on integrity and transparency of relations with third parties seeking to influence its proceedings. The rules of the Conference's member

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<sup>9</sup> The Charter would simply refer to the application of the provisions of the Rules of procedure in the event of non-compliance.

<sup>10</sup> Section 2 refers to an Action Plan of the Conference of INGOs adopted on 25 June 2015 but the link is not active and it appears that the document is not in the public domain.



INGOs which are in contact with the parliamentarians can only benefit from these awareness-raising initiatives.

35. Finally, it should be pointed out that mechanisms exist to deter but also to bring to light, where necessary, possible breaches of integrity and good governance, especially corruption and fraud<sup>11</sup>. Suspicions of such acts may be reported on-line<sup>12</sup>, and pursuant to [Rule No. 1327 of 10 January 2011 on awareness and prevention of fraud and corruption](#), anyone involved in the CoE's activities – other than members of the Secretariat – "are encouraged to report any reasonable suspicion of the misconduct they deem to be fraud or corruption directly to the Secretary General of the Council of Europe".

Recommendation:

Introduce arrangements informing each member of the conduct expected from them and the rules applicable in this area – including the future rules on conduct and integrity – and enabling them, if need be, to obtain advice in concrete situations.

## Conclusion

36. The desire of the Conference of INGOs to revise its internal rules with a view to possible improvements aimed at reducing risks linked to corruption is to be welcomed. GRECO hopes that the pointers proposed in the present expert appraisal will be useful in this respect. The recommendations made above are summarised below:

- i) ensure that a consolidated annual report accounts in sufficient detail on the actions carried out by the Conference's different components and organs, as well as the use of funding regardless of its source and form (direct or indirect support).
- ii) draw up a code of conduct for the members of the Conference, which would be periodically updated and include concrete examples of good practices and how to handle problem situations;
- iii) introduce a consolidated and clear set of provisions i) to ensure compliance with Conference members' obligations, including future rules of conduct, and ii) to refer a proposal to withdraw participatory status to the Secretary General in the most serious cases where actions damage the reputation of the Conference and the Council of Europe;
- iv) introduce arrangements informing each member of the conduct expected from them and the rules applicable in this area – including the future rules on conduct and integrity – and enabling them, if need be, to obtain advice in concrete situations.

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<sup>11</sup> Rule 1327 defines these concepts as follows: a) *The term 'Corruption' shall be used to mean requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.* b) *The term 'Fraud' shall be used to mean any illegal act or omission characterised by deceit, concealment or violation of trust, perpetrated to obtain money, property or services; to avoid payment or loss of services; or to secure personal or business advantage, irrespective of the application of threat of violence or of physical force.*

<sup>12</sup> <http://www.coe.int/en/web/portal/fraud-reporting-investigation>