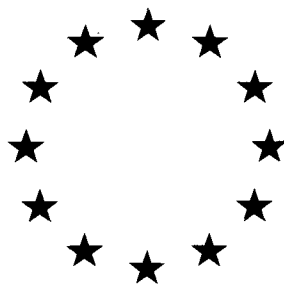


COUNCIL  
OF EUROPE



CONSEIL  
DE L'EUROPE

**CMD008368**

Committee of Ministers  
Comité des Ministres



Strasbourg, 3 August 1994

Restricted  
CM(94)117

For consideration by the Ministers' Deputies  
at their 516th meeting  
(September 1994, item 10.3, B level)

**19th CONFERENCE OF EUROPEAN  
MINISTERS OF JUSTICE**

**(Valletta, 14-15 June 1994)**

**Report by the Secretary General  
of the Council of Europe**

prepared in accordance with Resolution (71) 44  
of the Committee of Ministers

Introduction

1. The 19th Conference of European Ministers of Justice was held in Valletta on 14-15 June 1994 at the invitation of the Maltese Government. The agenda, a list of participants and the Resolutions adopted are contained in Appendices I - III to this report.
2. Preparatory meetings of the Bureaux of the CDPC and the CDCJ and of the Senior Officials were held on the eve of the Conference.
3. The Minister of Justice of Malta was elected Chairman of the Conference; the Ministers of Justice of Cyprus and Portugal were elected Vice Chairmen.
4. The theme of the Conference was: "Administrative, civil and penal aspects, including the role of the judiciary, of the fight against corruption". The main report was presented by the Italian Minister of Justice who had suggested this theme. Co-reports were presented by the Ministers of Justice of Malta and the Netherlands.
5. In his opening statement, the Prime Minister of Malta, the Hon. E. Fenech Adami, drew particular attention to the moral connotations rightly attached by the people to the notion of corruption, which are then refined to become legal definitions.

The problem is particularly acute in the newly emerging democracies, where the new values must find firm recognition and protection, and in any country in which corruption is so widespread as to be met with forbearance by the people. Throughout Europe however, the ever-increasing freedom of circulation of people and goods, a positive development in itself, increases also the risk of connections between organised crime and corruption.

6. In his address, the Secretary General a.i. emphasised the European dimension of the problem facing old and new democracies alike, pointing out that corruption undermines the fundamental values on which the Council of Europe is built and destroys civic attitudes and the citizens' confidence in the State.

The response to the problem must be European, and the Council of Europe is ready to play its part. Firm and joint action against corruption is required to maintain and strengthen democratic security in Europe.

7. Following the discussion, in which virtually all delegations took the floor, the Ministers adopted Resolution No 1 (see Appendix III). It recommends inter alia the creation of a multi-disciplinary Group within the Council of Europe, under the responsibility of the European Committee on Crime Problems (CDPC) and the European Committee on Legal Co-operation (CDCJ), to be entrusted with the task of examining what measures might be suitable to be included in a programme of action at international level against corruption.

8. On the initiative of the German Minister of Justice, the Ministers held a brief exchange of views on the fight against extremism, racism, xenophobia and antisemitism and adopted Resolution No 2 (see Appendix III).

9. The Ministers welcomed the invitation of the Romanian Minister to hold an informal meeting in Bucharest in 1995. The 20th Conference will be held in Budapest in 1996.

### Reports

10. The Minister of Justice of Italy presented his report (MJU-19 (94) 1), based on replies to a questionnaire which had been circulated to all Ministers. The criminal law definition of corruption varies greatly from country to country, embracing sometimes (but not consistently) corruption of private persons, liability of legal persons, illicit financing of political parties, etc.

The dangers of the connection between corruption and organised crime, particularly in the new democracies of Central and Eastern Europe, and of the existence of generalised "background" corruption must be underlined.

11. Beyond the traditional means of criminal law, from the administrative point of view, procedures of supervision and auditing of officials should be improved, and, most important, the elaboration and implementation of codes of conduct should be encouraged.

Particular attention needs to be given to the aspects of civil law, such as the validity of contracts concluded following corruption, bearing in mind the possible consequences for the economy and for employment.

12. In order to assist the judiciary in performing its role of paramount importance in the fight against corruption, judges should benefit from adequate specialisation and technical preparation.

In the long term, the possible role of ombudsmen and of independent commissions should be explored.

13. The Attorney General of Malta presented the report by the Minister of Justice (MJU-19 (94) 2), underlying the negative impact of corruption on the efficacy and reliability of the public service, and of the State institutions in general.

14. The report contains a detailed presentation of the role and functioning of the Public Service Commission and the Permanent Commission against Corruption in Malta.

15. As an overall consideration, to ensure the success of the legal measures to be adopted to fight corruption, be they preventive or repressive, the creation of a culture opposed to corruption through a good moral and civic education is indispensable.

16. The delegation of the Netherlands presented the report by the Minister of Justice (MJU-19 (94) 3), analysing the many possible implications of corrupt behaviour between private sector, public sector and political authorities.

17. In addition to obvious repressive measures, emphasis is laid on prevention. Laws and codes of conduct should be drawn up, to counter the possible weaknesses of business and of administration, and to regulate behaviour in a way that prevents exposure to temptation.

18. A particular aspect on which international co-operation should focus is the fight against corruption across borders, overcoming the traditional attitude of certain countries that do not necessarily punish corruption when committed abroad, or when directed at a foreign official.

#### Summary of the debates

19. The debate showed that the question of corruption is a subject which concerns all member States of the Council of Europe, and non-members as well, although there was a difference of appreciation as to whether corruption constituted an actual problem in some countries. Some Ministers considered that corruption concerned isolated cases in their countries whereas others said that corruption was a priority issue.

20. The problem is particularly important in certain countries of Central and Eastern Europe, where democratic institutions are still young and are not strong enough to provide an appropriate system of checks and balance which could effectively counter corruption. However, several Ministers from Western European States stated that their countries had experienced problems with corruption in spite of their well-established constitutional and legal order, and that it was essential to be vigilant.

21. It was agreed that the question affects the very existence of democratic institutions and democratic security of Europe, as expressed by the Secretary General a.i. in his opening statement. The Council of Europe, being the pre-eminent European institution defending the values of democracy, the Rule of Law and human rights, is called upon to respond to the threat posed by corruption.

22. The Ministers agreed that corruption is a phenomenon of a multidisciplinary character and that it is not possible to limit the discussion of the subject to criminal law only, although some priorities must be set. In particular the administrative law aspects seem to be of importance, but civil law aspects - for instance nullity of contracts - should not be neglected. Fiscal aspects, such as tax-deductibility of bribes, which is common practice in some States, are of importance.

23. It was further recognised that the law relating to corruption differs in the member States of the Council of Europe. Some States seem to limit the issue to corruption of public officials. Other States deal with corruption among private companies or extend the notion of corruption, for example, to illicit financing of political parties or in respect of elected officials, both at national and local level. Ministers acknowledged that the member States and other participating States have a great deal to learn from each other and that the question merits further study.

24. One Minister proposed that each State set up a national Group against corruption, similar to the one which is proposed at international level within the Council of Europe. The proposed multidisciplinary Group of the Council could in the long run serve as a clearing house for the exchange of information and ideas within such a framework.

25. The Ministers recognised that corruption is becoming more and more an international, transfrontier phenomenon. Many Ministers advocated the elaboration of a Convention which would provide the legal framework for co-operation between the competent authorities of the States concerned.

In addition, and not necessarily as an alternative, several Ministers were in favour of the elaboration of codes of conduct or model laws.

26. Particularly in its international ramifications, corruption is closely linked with organised crime. In this context, several Ministers mentioned the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No 141), which to date has received 6 ratifications and 16 signatures, and hoped that the state of ratifications could be improved soon.

The Ministers agreed that international co-operation is important in the fight against corruption and that such co-operation could usefully be carried out through the Council of Europe, ensuring, however, a coherent and coordinated approach with the OECD and the United Nations.

\*

\* \*

27. Finally, during a brief exchange of views concerning the fight against extremism, racism, xenophobia and antisemitism the Ministers supported the work of the Council of Europe in this respect (see Resolution N°2).

28. The Secretary General a.i. wishes to express on record his appreciation and his gratitude to the Maltese authorities for the excellent organisation and the warm hospitality offered to all participants.

**A P P E N D I X I**

**A G E N D A**

1. Opening of the Conference by Mr P. Leuprecht, Secretary General a.i. of the Council of Europe
2. Address by the Hon. E. Fenech Adami, Prime Minister of Malta
3. Address by Mr P. Leuprecht, Secretary General a.i. of the Council of Europe
4. Election of the Chairman and two Vice-Chairmen
5. Theme: Administrative, civil and penal aspects, including the role of the judiciary, of the fight against corruption
6. Other questions
7. Adoption of Resolutions
8. Close of the Conference

**A P P E N D I X   I I**

**LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS**

**AUSTRIA/AUTRICHE :**

Mr Nikolaus MICHALEK, Federal Minister of Justice  
Mr Roland MIKLAU, Director General, Head of the Directorate for Penal Legislation, Federal Ministry of Justice  
Mr Günter WINSAUER, Judge, Personal Assistant to the Minister

**BELGIUM/BELGIQUE :**

M. Claude DEBRULLE, Directeur Général, Administration des Affaires pénales et criminelles, Ministère de la Justice  
M. Jérôme GLORIE, Conseiller au Cabinet  
M. Daniel FLORE, Conseiller adjoint au Cabinet

**BULGARIA/BULGARIE :**

M. Petar KORNAJEV, Ministre de la Justice  
M. Nedko DOBRILOV, Premier Vice-Ministre de la Justice  
M. Ognian BAKALOV, Directeur de la coopération juridique internationale, Ministère de la Justice  
Mme Roumiana DIMITROVA, Interprète

**CYPRUS/CHYPRE :**

Mr Alecos EVANGELOU, Minister of Justice and Public Order  
Mrs Anny SHAKALLI, Administrative Officer, Ministry of Justice and Public Order

**CZECH REPUBLIC/REPUBLIQUE TCHEQUE :**

Mr Cyril SVOBODA, Deputy Minister of Justice  
Mr Libor GRYGAREK, Chief Prosecutor

**DENMARK/DANEMARK :**

Mr Erling OLSEN, Minister of Justice  
Mr Johan REIMANN, Head of Section  
Miss Kirstine TROLDBORG, Personal Secretary to the Minister

**ESTONIA/ESTONIE :**

Mr Urmas ARUMAE, Minister of Justice  
Mrs Aili MAASIK, Head Specialist, Economy Law Department

**FINLAND/FINLANDE :**

Mrs Anneli JÄÄTTEENMÄKI, Minister of Justice  
Mr Teuvo KALLIO, Secretary General  
Mr Pekka NURMI, Director General  
Mrs Kaarina BUURE-HÄGGLUND, Director of Legislation, President of the CDCJ  
Mr Per-Johan LINDHOLM, Justice of the Supreme Court, Member of the CDPC Bureau  
Mr Ossi HYVÖNEN, Special Assistant

**FRANCE :**

M. Pierre MEHAIGNERIE, Ministre de la Justice  
M. Jean GAEREMYNCK, Directeur adjoint du Cabinet du Ministre  
M. André POTOCKI, Chef, Division des affaires internationales et européennes  
M. Michel RAINERI, Conseiller, Ministère des Affaires étrangères

**GERMANY/ALLEMAGNE :**

Mr Ingo KOBER, Permanent State Secretary  
Mr Wolfgang BIRKE, Ministerialrat  
Mr Peter WILKITZKI, Ministerialrat  
Ms Beate SCHMIDT, Private Secretary to the State Secretary

**GREECE/GRECE :**

M. Nicolaos PARASKEVOPOULOS, Professor of Criminal Law at the University of Thessaloniki, Advisor to the Minister of Justice  
M. Panayiotis KORNILAKIS, Professeur à l'Université de Thessaloniki, Conseiller du Ministre de la Justice

**HUNGARY/HONGRIE :**

Mr Károly BARD, Deputy Secretary of State, member of the CDPC Bureau  
Mr László KECSKES, Deputy Secretary of State  
Mr Lipót HOLTZL, Deputy Director, Ministry of Justice

**ICELAND/ISLANDE :**

Mr Thorsteinn PALSSON, Minister of Justice  
Mr Thorsteinn GEIRSSON, Secretary General, Ministry of Justice

**IRELAND/IRLANDE :**

Mr Richard RYAN, Principal Officer, Law Division, Department of Justice  
Mr Kevin CONDON, Vice Principal Officer, Law Division, Department of Justice

**ITALY/ITALIE :**

M. Alfredo BIONDI, Ministre de la Justice  
M. Lorenzo SALAZAR, Magistrat, Bureau législatif, Ministère de la Justice  
Mr Gioacchino POLIMENI, Magistrate, Director, Office for European Affairs, Ministry of Justice  
M. BAZZANI, Attaché de Presse

**LIECHTENSTEIN :**

M. Franz REDERER, President of the Princely Court  
M. Gunther HOLZKNECHT, Head of Service of Advice and Complaints  
M. Arnold OEHRICH, Ancien Président du Tribunal de Première Instance

**LITHUANIA/LITHUANIE :**

Apologised/Excusé

**LUXEMBOURG :**

M. Marc MATHEKOWITSCH, Conseiller de Gouvernement 1ère classe, membre du Bureau du CDCJ

**MALTA/MALTE :**

Mr Joseph M. FENECH, Minister of Justice  
Mr Anthony BORG BARTHET, Attorney General  
Mr Silvio CAMILLERI, Deputy Attorney General  
Mr Vincent Anthony DE GAETANO, Judge, Superior Courts, member of the CDCJ Bureau  
Mr Joseph FILLETTI, Judge, Superior Courts, member of the CDPC Bureau  
Mr John de GRAY, Permanent Secretary, Ministry of Justice

**NETHERLANDS/PAYS-BAS :**

Mr Gerard VAN DINTER, Secretary General, Ministry of Justice  
Mr Erik LUKACS, Legal Adviser, Head of the Section of Civil Legislation, Ministry of Justice  
Mr Arie ZWANENBURG, Coordinator Corruption Affairs, Police Department, Ministry of Justice  
Mr Wilfred KORTMAN, Information Officer

**NORWAY/NORVEGE :**

Apologised/Excusé

**POLAND/POLOGNE :**

Mr Wlodzimierz CIMOSZEWICZ, Deputy Prime Minister, Minister of Justice, Attorney General

Mr Telesfor NOWAK, Judge, Deputy Director of the Minister's Cabinet

Mr Boleslaw MICHALEK, Ambassador of Poland to Malta in Rome

**PORTUGAL :**

M. Alvaro LABORINHO LUCIO, Ministre de la Justice

Mr Joaquim de SEABRA LOPES, Directeur Général, Ministère de la Justice, membre du Bureau du CDCJ

M. Jose Souto de MOURA, Procureur Général adjoint, Ministère de la Justice,

Mme Fatima FRANCO, Adjointe au Cabinet du Ministre

**ROMANIA/ROUMANIE :**

M. Gavril Iosif CHIUZBAIAN, Ministre de la Justice

Ms Cristina LUZESCU, Chief Counsellor

**SAN MARINO/SAINT-MARIN :**

Apologised/Excusé

**SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE :**

Mr Milan HANZEL, Minister of Justice

Mrs Ida HANZELOVA, Judge of the Supreme Court

Mr Milos HATAPKA, Head of International Treaties Division, Ministry of Justice

**SLOVENIA/SLOVENIE :**

Mr Miha KOZINC, Minister of Justice

Ms Tatjana TAVCAR, Government Adviser

**SPAIN/ESPAGNE :**

Mme Maria Paz FERNANDEZ FELGUEROSO, Secrétaire d'Etat aux Affaires Pénitentiaires

Mme Maria Jesus MIRANDA LOPEZ, Sous-Directrice Générale, Chef de Cabinet du Secrétaire d'Etat aux Affaires Pénitentiaires

**SWEDEN/SUEDE :**

Mrs Gun HELLSVIK, Minister of Justice  
Mr Anders PERKLEV, Legal Adviser  
Mr Klas BERGENSTRAND, Prosecutor General

**SWITZERLAND/SUISSE :**

M. Arnold KOLLER, Conseiller fédéral, Chef du Département fédéral de Justice et Police  
M. Heinrich KOLLER, Directeur de l'Office fédéral de la Justice  
M. Peter MÜLLER, Sous-Directeur à l'Office fédéral de la Justice  
M. Philippe BOILLAT, Chef de la Section du droit européen et des affaires internationales de l'Office fédéral de la Justice  
M. Anton WOLFISBERG, Conseiller d'Etat

**TURKEY/TURQUIE :**

M. Seyfi OKTAY, Ministre de la Justice  
Mme Neslihan KARAKAYA, Directeur Général des affaires juridiques, Ministère de la Justice  
M. Uygur AKTALAY, Directeur Général des Lois, Ministère de la Justice  
M. Turgut AYDIN, Directeur Général du droit international et des relations extérieures, Ministère de la Justice  
M. Günay DAGISTANLI, Conseiller, Ministère de la Justice

**UNITED KINGDOM/ROYAUME-UNI :**

Mr David MACLEAN, Minister of State, Home Office  
Sir Thomas LEGG, KCB QC, Permanent Secretary of the Lord Chancellor's Department and Clerk to the Crown in Chancery  
Mr Austin WILSON, Assistant Under-Secretary of State, Home Office, member of the CDPC Bureau  
Mr Edwin KILBY, Legal Adviser, Lord Chancellor's Department  
Miss Suzanne GOOCH, Private Secretary

\*\*\*\*\*

**COMMITTEE OF MINISTERS/COMITE DES MINISTRES**

Ambassadeur Svetlozar RAEV, Président des Délégués des Ministres, Représentant Permanent de la Bulgarie auprès du Conseil de l'Europe

**PARLIAMENTARY ASSEMBLY/ASSEMBLEE PARLEMENTAIRE :**

Lord KIRKHILL, President of the Committee for Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe

**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION /  
COMITE EUROPEEN DE COOPERATION JURIDIQUE (Bureau)**

Mrs Kaarina BUURE-HÄGGLUND, Director of Legislation (Chairman) (Finland)  
Mr Vincent Anthony DE GAETANO, Judge, Superior Courts (Malta)  
Mr Joaquim de SEABRA LOPES, Directeur Général, Ministère de la Justice (Portugal)  
M. Georges KOUMANTOS, Professeur à l'Université d'Athènes (Greece)  
M. Marc MATHEKOWITSCH, Conseiller de Gouvernement 1ère classe (Luxembourg)

**EUROPEAN COMMITTEE ON CRIME PROBLEMS/  
COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS (Bureau)**

Mr J.J.E. SCHUTTE, Legal Adviser, Ministry of Justice (Chairman) (Netherlands)  
Mr Károly BARD, Deputy Secretary of State (Hungary)  
Mr Joseph FILLETTI, Judge, Superior Courts (Malta)  
Mr Per-Johan LINDHOLM, member of the Supreme Court (Finland)  
M. Jean-Dominique SCHOUWEY, Chef de la Section Législation et Accords Internationaux, Office fédéral de la Police (Suisse)  
Mr Austin WILSON, Assistant Under-Secretary of State, Home Office (United Kingdom)

**OBSERVERS/OBSERVATEURS**

**ALBANIA/ALBANIE :**

Apologised/Excusé

**BELARUS :**

Apologised/Excusé

**CANADA :**

Apologised/Excusé

**CROATIA/CROATIE :**

Apologised/Excusé

**HOLY SEE/SAINT-SIEGE :**

Monseigneur Julián HERANZ CASADO, Secrétaire du Conseil Pontifical pour l'interprétation des textes législatifs

Mme Evelyn CARUANA DEMAJO, LL. D., Nonciature apostolique à Malte

**LATVIA/LETTONIE :**

M. Egils LEVITS, Minister of Justice

**MOLDOVA :**

Apologised/Excusé

**RUSSIA/RUSSIE :**

M. Youri KALMYKOV, Ministre de la Justice

Mr Valentin KRUKHOV, Director, International Legal Department

**UKRAINE :**

Mr Vasyl V. ONOPENKO, Minister of Justice

Ms Natalia SHAKOURO, Interpreter

**UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE :**

Mr Michael DE FEO, Senior Counsel for International Law Enforcement, Department of Justice

\*\*\*\*\*

**EUROPEAN UNION/UNION EUROPEENNE :**

M. Charles ELSÉN, Directeur Général, Direction Générale H, Justice et Affaires Intérieures, Conseil de l'Union européenne

**THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW/  
CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE :**

M. Georges DROZ, Secrétaire Général

**UNIDROIT :**

M. Riccardo MONACO, President

**INTERNATIONAL COMMISSION ON CIVIL STATUS/COMMISSION  
INTERNATIONALE DE L'ETAT CIVIL :**

M. Jacques MASSIP, Secrétaire Général  
M. Frits W. HONDIUS, Secrétaire Général adjoint

\*\*\*\*\*

**SECRETARIAT OF THE COUNCIL OF EUROPE/  
SECRETARIAT DU CONSEIL DE L'EUROPE :**

M. Peter LEUPRECHT, Secrétaire Général a.i.

**DIRECTORATE OF LEGAL AFFAIRS/DIRECTION DES AFFAIRES JURIDIQUES**

Mme Marie-Odile WIEDERKEHR, Directeur adjoint des Affaires Juridiques  
M. Gianni BUQUICCHIO, Chef de la Division du Conseiller juridique  
M. Hans-Jürgen BARTSCH, Chef de la Division des problèmes criminels  
M. Roberto LAMPONI, Administrateur principal, Division du Conseiller juridique  
M. Hans G. NILSSON, Administrateur principal, Division de droit civil et commercial  
Mlle Helen Louise MONKS, Secrétaire  
Mlle Brigitte AUBRY, Secrétaire

**PRIVATE OFFICE OF THE SECRETARY GENERAL/  
CABINET DU SECRETAIRE GENERAL :**

M. Irena KOWALCZYK, Administrateur

**SECRETARIAT OF THE COMMITTEE OF MINISTERS/  
SECRETARIAT DU COMITE DES MINISTRES :**

M. Jean CLAUS, Administrateur

**OFFICE OF THE CLERK OF THE PARLIAMENTARY ASSEMBLY/  
GREFFE DE L'ASSEMBLEE PARLEMENTAIRE :**

Mme Danielle COIN, Co-Secrétaire de la Commission des questions juridiques et des droits de l'homme

**PROTOCOL/PROTOCOLE :**

M. Muammer TOPALOGLU, Chef du Protocole  
Mlle Isabelle FLECKSTEINER, Secrétaire

**PRESS AND INFORMATION/PRESSE ET INFORMATION**

Mme Christiane DENNEMEYER, Attachée de Presse

Mme Cathy BURTON, Attachée de Presse

Mme Jacqueline de JUST PELLICER, Secrétaire

**LANGUAGE SERVICES/SERVICES DES LANGUES :**

Mme Denise BRASSEUR, Chef de la Division de l'Interprétation

**INTERPRETERS/INTERPRETES**

Mme C. ARDON

Mme L. de WAL

M. M. MINOGUE

Mme F. POINT

Mme R. de WAHA

Mme E. HEINISCH

Mme M. PAEFFGEN

Mlle G. PANGRAZIO

M. A. SOLE-LERIS

Mme M.T. RESTREPO

Mlle C. TOLLU

Mme Z. BEKDIK

Mme B. DOLAY

### A P P E N D I X   I I I

#### RESOLUTION N°1

#### ON CIVIL, ADMINISTRATIVE AND CRIMINAL LAW ASPECTS OF

#### CORRUPTION

The Ministers participating in the 19th Conference of European Ministers of Justice (Valletta, 1994);

Having examined the report submitted by the Italian Minister of Justice on administrative, civil and penal aspects, including the role of the judiciary, of the fight against corruption;

Having examined the co-reports of the Ministers of Justice of Malta and the Netherlands;

Considering that corruption is a serious threat to democracy, the rule of law and human rights, which constitute the fundamental values of the Council of Europe;

Considering that the Council of Europe, being the pre-eminent European institution defending those values, is called upon to respond to that threat;

Convinced that the fight against corruption should take a multi-disciplinary approach, involving all aspects of law (civil, administrative, criminal and constitutional) as well as other measures specially designed effectively to counter corruption, including guaranteeing the independence of the judiciary;

Concerned about the links which have been established in many countries between corruption and organised crime;

Concerned that corruption creates a climate prejudicial to civic attitudes and to relations between the public and the authorities;

Underlining the adverse financial consequences of corruption to the individual and the State as well as to international institutions,

Noting that it is necessary to involve and motivate the public to fight against corruption;

Convinced of the necessity to adopt appropriate legislation, where needed, in this area as soon as possible;

Aware of the need to develop other measures such as codes of conduct and administrative regulations;

Believing that an effective fight against corruption requires increased cross-border co-operation between States, and between States and international institutions;

Aware of the need to involve also non-member States of the Council in this fight;

Considering the need to promote the co-ordination of measures, including preventive ones, at a European level and beyond;

Having regard to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990 and the Directive of the Council of the European Communities of 10 June 1991 on Prevention of the Use of the Financial System for the Purpose of Money Laundering and ongoing work in the OECD and the United Nations;

Agreeing that the speedy ratification and effective implementation of the Convention and other international instruments relating to money laundering would constitute an important step towards the eradication of the use of ill-gotten gains, including corrupt money;

Expressing their gratitude to the Minister of Justice of the Italian Republic for his proposal to set up a Group on Corruption within the Council of Europe open to the participation of non-member States of the Council of Europe,

RECOMMEND that the Committee of Ministers:

1. Set up a multi-disciplinary Group on Corruption within the Council of Europe, under the responsibility of the European Committee on Crime Problems (CDPC) and the European Committee on Legal Co-operation (CDCJ), and entrust the Group with the task of examining what measures might be suitable to be included in a programme of action at international level against corruption;
2. Entrust the Group with examining the list of subjects mentioned in the Appendix, making proposals as to the appropriate priorities to be set, taking due account of the work of other international organisations and bodies with a view to ensuring a coherent and co-ordinated approach;

3. Entrust the Group with examining in particular the possibility of drafting model laws or codes of conduct in selected areas, including the elaboration of an international convention on this subject, as well as the possibility of elaborating follow-up mechanism to implement undertakings contained in such instruments;
4. Consider the possibility of inviting to participate in the Group States other than those represented at this Conference as well as interested international organisations or bodies;
5. Entrust the Group with examining the possibility of organising or promoting research projects, training programmes and the exchange of practical experiences of corruption;
6. Ensure that the Group be given sufficient resources to carry out its task.

### Appendix

#### General

a. Consideration of the nature of corruption, also with a view to appraising the feasibility of arriving at a common legal definition, or one which is harmonised as far as possible. Study of the question whether there is or should be a distinction between corruption and coercion. Research on corruption.

#### Administrative, public, civil and tax law aspects

- b. Public and private codes of conduct and other preventive measures.
- c. Administrative liability and auditing.
- d. Administrative penalties.
- e. Civil remedies (for example injunction, damages).
- f. Means of obtaining evidence relating to corruption and evidence required to prove corruption and damage resulting from corruption.
- g. Identification of the injured party and protection of third parties.
- h. Subsequent action to be taken with regard to contracts, especially public contracts for works, and consideration of making rules for public procurement.
- i. Control of or taxation of illicit payments (for example requiring more detailed tax returns or annual reports).
- j. Financing of political parties. Role of "lobby" organisations. Role of members of Parliament representing sectoral interests.
- k. Protection and responsibility of civil servants and elected officials, at national and local level. Study of legal consequences of conviction for corruption: disqualification and loss of right to hold office.
- l. Protection and responsibility of legal professions, including judges, prosecutors and members of Bar associations.
- m. Protection and responsibility of other professions, including persons responsible for investment funds.

- n. Setting up of special bodies responsible for the fight against corruption.

Criminal law aspects

- o. Study of the importance of "background corruption" and trading in influence.
- p. Need to render illegal the laundering of the proceeds of corruption, irrespective of where the offence was committed.
- q. Seizure and confiscation of the proceeds of corruption, including confiscation of the equivalent value.
- r. Criminal liability of legal persons.
- s. Corruption and criminal law aspects of illicit financing in politics.
- t. Criminalisation of corruption of foreign officials.
- u. Immunity from ordinary jurisdiction and maintaining special procedures for some categories of persons.
- v. Protection of witnesses.

International co-operation

- x. Extradition and mutual assistance for offences or corruption.
- y. Corruption of officials of international and supranational organisations.

**RESOLUTION N°2**  
**ON THE FIGHT AGAINST EXTREMISM, RACISM, XENOPHOBIA**  
**AND ANTISEMITISM**

The Ministers participating in the 19th Conference of European Ministers of Justice (Valletta 1994),

Having taken note of the intervention of the German delegation;

Welcoming the establishment, within the Council of Europe, of the European Commission against Racism and Intolerance,

RECOMMEND that the Committee of Ministers invite the European Committee on Crime Problems (CDPC):

- a. to contribute in the most appropriate way to the work of the European Commission against Racism and Intolerance;
- b. to take into account, within its activities, the need for all States to have in place effective legislation to combat extremism, racism, xenophobia and antisemitism and, within their law, to facilitate extradition and other forms of international co-operation in relation to the most serious offences in this field;
- c. to ensure that its own work in this area takes full account of the work which is already being carried out in other fora.

**RESOLUTION N° 3**

The Ministers participating in the 19th Conference of European Ministers of Justice (Valletta, 1994),

Aware of the advantage of arranging personal contacts between the Ministers responsible for out their governments' policy in the legal field;

Having learnt with pleasure of the invitation of the Minister of Justice of Romania to hold an Informal Meeting in Bucharest in 1995,

EXPRESS the warmest thanks to the Maltese Government for the excellent organisation of the 19th Conference in Valletta and for its kind hospitality;

GRATEFULLY ACCEPT the invitation to hold their next Informal Meeting in Bucharest in 1995.