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Greco (2012) 10E

55th GRECO Plenary Meeting
(Strasbourg, 14 – 16 May 2012)

SUMMARY REPORT

I. Opening of the meeting

1. The 55th Plenary Meeting was chaired by Mr Marin MRČELA, President of GRECO (Croatia).

2. The President opened the meeting by welcoming all participants, referring in particular to newly nominated heads of delegation and representatives. The list of participants appears in Appendix I.

II. Adoption of the Agenda

3. Having taken note that the agenda item : Exchange of Views with representatives from Transparency International – ways to enhance cooperation had been postponed to GRECO 56, the agenda was adopted as it appears in Appendix II.

III. Information provided by the President, delegations and the Executive Secretary

4. The **President** provided the plenary with information as outlined below.

i. On 9 May he had presented GRECO's Twelfth General Activity Report on activities in 2011 at an exchange of views with the Committee of Ministers of the Council of Europe (1142nd meeting of the Ministers' Deputies). The text of his statement had been distributed to GRECO. He was very pleased at the considerable interest shown, recognition and respect for GRECO's work as well as the many expressions of continued support, including from the Permanent Representative of Norway to the Council of Europe, Ambassador Petter WILLE, who was the current chair of GRECO's Statutory Committee. A number of delegations had also underlined their support for the process aimed at European Union participation in GRECO. On that subject, the Head of the Delegation of the EU to the Council of Europe had added that the EU was committed to formal reinforced cooperation with GRECO.

ii. At its last meeting (Bureau 59, 13 April) the Bureau had discussed the question of media briefings during on-site visits which contributed to raising the profile of GRECO's work and gave publicity to a host country's anti-corruption efforts. It had been agreed that if requests were received from the media, it should be the secretariat, rather than the evaluators, who meets them in order to reduce the burden on the latter. Contacts with the press should be organised preferably at the beginning of a visit and only background information on GRECO's purpose and *modus operandi* would be provided. In its decision no. 17, the plenary validated these points.

iii. Another important issue discussed by the Bureau was the publication of adopted reports. It had been agreed that once authorisation was given, member States should agree a same-day publication date with the Secretariat. Two dates – date of adoption and date of publication should be clearly marked on the cover of published reports. A linked issue, was ensuring the widest accessibility to the reports in their respective domestic arenas, including their availability in the national language(s) and making it clear to members of the public where they can find the reports on domestic websites. The Bureau had therefore furthermore agreed that, in the spirit of GRECO principles of openness and transparency, a translation of the report in the national language(s) should be made available on a domestic website and rendered easily accessible. Delegations should communicate the relevant internet link(s) to the secretariat when coordinating publication. In its decision no. 17, the plenary validated these points.

iv. The Bureau had also discussed the substantive issue to be covered in the feature article in GRECO's Thirteenth General Activity Report (2012) and chose "Lobbying

and Corruption” as a suitable topic and had asked the secretariat to contact possible author(s).

- v. Finally, the President wished to encourage contacts with the European Association of Judges – a regional group of the International Association of Judges –in the run-up to Fourth Round evaluation visits. He had participated in the annual congress of the association (Amsterdam, 10 – 13 May). It could provide useful input on appropriate interlocutors (e.g. national associations) for the civil society element of visit programmes. He underlined that he was convinced of the general pertinence of involving representatives of relevant civil society bodies in GRECO’s evaluation work during the on-site visit stage of the procedures.
5. The President handed the floor to delegations:
- i. **Ireland** thanked the Executive Secretary for his contribution to the meeting on Promoting Good Governance and Combating Corruption in Support of Socio-economic Development (Dublin, 23 – 24 April 2012) organised as the second stage in the preparations for the 20th OSCE Economic and Environmental Forum “Promoting Stability and Security through Good Governance” to be held in Prague in September 2012.
 - ii. **“The former Yugoslav Republic of Macedonia”** reported that the Third Round Compliance Report adopted at GRECO 54 had been translated and authorisation to publish was pending. Amendments to the Electoral Code were under preparation bearing in mind GRECO recommendations. In the context of ongoing high-level dialogue with the European Commission, September 2012 had been fixed as the deadline for implementation of GRECO’s recommendations. Training programmes were being implemented in cooperation with the State Commission for the Prevention of Corruption. Moreover, training for the staff of the State Commission was being organised in order to strengthen their capacity for initiating misdemeanour and criminal proceedings. The Law on Conflict of Interests provided for competence of the State Commission to carry out systematic checks of asset declarations according to Government issued regulations. Particular efforts (translation of key texts, including the evaluation questionnaire and indication of pertinent Internet links) had been made to increase awareness of GRECO’s work – more specifically that of the Fourth Evaluation Round – among judges and prosecutors.
 - iii. **San Marino** reported that during the week of 21 March the Joint First and Second Round Evaluation Report adopted by GRECO had been presented to the Parliament by the Minister of Foreign Affairs. All political groups present in parliament concurred that priority should be given to corruption and decided to ask the Government to implement all GRECO’s recommendations.
 - iv. In **Georgia** legislation had been adopted in response to Third Round recommendations under Theme I. In response to recommendations under Theme II, amendments to the Organic Law on Political Unions of Citizens that had been assessed by the European Commission for Democracy through Law (Venice Commission) and representatives of NGOs were undergoing a third reading in Parliament. Georgia had recently been visited by a team of UNODC experts in the context of the implementation review of the United Nations Convention against Corruption – it had been mentioned in that context that the results of GRECO’s Third Round work on incriminations had been very helpful. Finally, Georgia’s Anti-Corruption Coordination Council had expanded its membership to include a representative of the Council of Europe Office in Tbilisi.
 - v. In **Albania**, the adoption of Law 23 of 1 March 2012 had brought amendments to the Criminal Code in response to GRECO’s Third Round recommendations under Theme I. As regards Theme II, a decision had been adopted by the Electoral

Commission (No. 3 of 18 January 2012) setting a standardised format and regulating the nomination of auditors for the monitoring of party funding.

- vi. In support of the initiatives reported by the President under paragraphs 4. ii. and iii. above, the representative of **France** stressed the fundamental importance of initiatives to ensure maximum visibility of the anti-corruption efforts of GRECO member States and of GRECO as a body. GRECO and its individual members needed to be particularly proactive, towards for example the media and the public as a whole, in order to obtain wide awareness and a broad transmission of the anti-corruption message borne by GRECO's work. He recalled, in this respect, Guiding Principle 16 (Committee of Ministers Resolution the Twenty Guiding Principles for the Fight against Corruption – Resolution (97) 24) "to ensure that the media have freedom to receive and impart information on corruption matters, subject only to limitations or restrictions which are necessary in a democratic society".
 - vii. The **President** further stated his conviction that, beyond the visibility efforts of the secretariat (including the Directorate of Communication of the Council of Europe) and himself, GRECO member states needed themselves to strive for greater recognition in their respective countries of the process they were engaged in within GRECO, through greater openness and visibility. Any suggestions would be examined with interest.
 - viii. The representative of **Ukraine** reported on the publication by the Ministry of Justice of details of law enforcement statistics, research and the actions taken to implement the State anti-corruption strategy.
 - ix. The representative of the **International Anti-corruption Academy (IACA)** drew attention to the holding of a seminar organised by the Romanian National Anticorruption Directorate in cooperation with the German Foundation for International Legal Cooperation. The theme was "best practices and strategies in detecting, investigating and prosecuting corruption and fraud in public procurement" (Bucharest, 7-8 June 2012).
6. The floor was handed to the **Executive Secretary** who first welcomed the raising of the issue of visibility and provided some background to the conclusions reached by Bureau 59 that had been reported on by the President and validated by the plenary in its decisions. Spot checks carried out in the context of an external audit had shown to what extent it could be difficult to access GRECO reports on domestic websites via various search engines. It could be difficult to find national language versions of reports even though such versions existed and it had been felt that maintaining only the date of adoption rather than also indicating the date of publication of a report on the cover page could lead to misunderstanding as to its pertinence at any given time.
7. The Executive Secretary also provided the plenary with information as follows:
- i. As a complement to the information provided by the President on his exchange of views with the Ministers' Deputies (cf. paragraph 4.i above), he wished to report that many of those who took the floor emphasised their interest in the overall theme of GRECO's recently launched Fourth Evaluation Round, in one instance referring to it as a "landmark decision". Since, GRECO's Twelfth General Activity Report had been published and triggered quite a lot of media interest, thanks in no small part to a press release designed by the Directorate of Communication placing the focus on GRECO's work on political funding.
 - ii. The two thematic reviews of GRECO's work under the two Themes of the Third Evaluation Round carried out recently had been published on GRECO's website:

Political Funding by Yves-Marie DOUBLET

(http://www.coe.int/t/dghl/monitoring/greco/general/DOUBLET_EN.pdf) and

Incriminations by Roderick MACAULEY

(http://www.coe.int/t/dghl/monitoring/greco/general/MACAULEY_EN.pdf).

- iii. Copies had been made available of the publication "eucrim – the European Criminal Law Association's Forum" (2012/1) which included an editorial by GRECO's President concerning the question of EU accession to GRECO.
- iv. The OSCE meeting referred to by the representative of Ireland had gathered some 250 participants (representatives of 51 States – many from the diplomatic services) to prepare for the Concluding Meeting of the Economic and Environmental Forum that would take place in Prague in September 2012 at which there would be a strong focus on good governance. Ireland currently held the Chair of the OSCE and was to be congratulated on the organisation of the meeting. Session 1 had been devoted to international regional instruments and initiatives in the fight against corruption with contributions from colleagues from the UN, OECD and himself.
- v. An event would be held by the OECD devoted to the independence and integrity of the judiciary in Istanbul on 28 – 29 June 2012. GRECO would be associated through the participation of its President who would chair a working group and one-day session. Two fourth round evaluators, Nina BETTETO (Slovenia) and José Manuel Igreja MARTINS MATOS (Portugal), would also speak at the event.
- vi. the European Committee on Legal Cooperation (CDCJ) had commissioned a study - which would be drawn up by Paul STEPHENSON who had previously acted as the Head of the United Kingdom's Delegation in GRECO and by Professor Michael LEVI, Professor of Criminology at the University of Cardiff - on the feasibility of drawing up an instrument for whistleblower protection which would most probably lead to the preparation of a Council of Europe Recommendation by a CDCJ working party in which GRECO would be invited to formally participate. As whistle blowing was not solely an anti-corruption issue, whether GRECO might in future be asked to follow implementation of a Recommendation would remain unclear for some time.
- vii. At the initiative of the secretariat, Bureau 59 had discussed the wording of recommendations in the body of GRECO evaluation reports, where the formulation the "GET recommends" – which probably originated in the light of practice in other monitoring bodies – made little sense in the GRECO context as recommendations were ultimately adopted by the GRECO plenary. The Bureau had agreed that as of the Fourth Evaluation Round, recommendations issued in evaluation reports, even at the drafting stage, should no longer be introduced by the phrase "... the GET recommends" but should read "... GRECO recommends". In its Decision no. 17, the plenary validated this point.
- viii. Bureau 59 had also looked into Rule 32 (so-called non-compliance procedure) under which a step by step approach is applied. It considered that it might be wiser to consider the various steps as a collection of possible measures from which GRECO could chose. The Bureau would consider proposing an appropriate revision to the Rules of Procedure.

IV. Third Evaluation Round – compliance procedures

8. GRECO adopted the Third Round *Interim* Compliance Reports on **Belgium** (GRECO RC-III (2012) 5E) and **Denmark** (Greco RC-III (2012) 11E). Both assessed the further implementation of recommendations that had been pending at the time of the previous stage in the compliance procedure, following the application of Rule 32, paragraph 2(i) of GRECO's Rules of Procedure. In both cases, GRECO deemed that the response to the recommendations was still "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. In accordance with Rule 32,

paragraph 2(ii), letters would be sent by the President to the heads of the Belgian and Danish delegations, with copy to the Chair of the Statutory Committee, drawing attention to the need for firm action to be taken to ensure tangible progress as soon as possible.

9. The authorities of Belgium and Denmark were invited to provide reports on action taken to implement pending recommendations by 28 February 2012.

10. The plenary also examined and adopted the *Second* Third Round Compliance Reports on **Estonia** (Greco RC-III (2012) 1E¹), **Iceland** (Greco RC-III (2012) 2E) and **Slovenia** (Greco RC-III (2012) 6E²). They had been prepared, on the basis of Situation Reports submitted by the national authorities, in consultation with rapporteurs designated on behalf of Hungary and the United States of America for the report on Estonia, on behalf of Croatia and Sweden for Iceland and Germany and Finland for Slovenia.

11. In the case of Estonia and Iceland, the Heads of Delegation were asked, in accordance with Rule 31, paragraph 9 of the Rules of Procedure to submit additional information on the implementation of certain recommendations by 28 February 2013.

12. In the case of Slovenia, GRECO concluded that more convincing action was clearly needed and the response to the recommendations was "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3. It was decided to apply Rule 32 and to ask the Head of Delegation of Slovenia to submit a report on implementation by 30 November 2012.

13. Furthermore, GRECO examined the draft *Second* Third Round Compliance Report on the **United Kingdom** which had been prepared, on the basis of a Situation Report submitted by the national authorities, in consultation with rapporteurs designated on behalf of Bulgaria and Ireland. The reading of Theme II of the report was completed but GRECO decided to postpone the reading of Theme I and the adoption of the report as a whole to GRECO 56.

14. The President expressed his dissatisfaction that three of the compliance reports adopted at the present plenary meeting concluded that implementation levels were "globally unsatisfactory" and that, overall, levels were decreasing. Even though some objective reasons could be evoked, he urged delegations in GRECO to promote within the competent national authorities the need to push for stronger political will to obtain higher levels of compliance with GRECO's recommendations. In its decisions, GRECO took due note of that call.

15. Finally, GRECO approved the list of rapporteur countries for forthcoming third round compliance procedures (Greco Eval III (2012) 2 – Eng. only). Thus, Greece and Romania would designate rapporteurs to participate in the assessment of measures taken by Armenia to implement GRECO's recommendations, Bosnia and Herzegovina and San Marino would designate rapporteurs for Montenegro, Monaco and the Netherlands for Portugal and France and Turkey for Romania.

V. Publication, translation and availability of adopted reports

16. GRECO invited all members concerned to authorise the publication of adopted evaluation and compliance reports as soon as possible and, once authorisation is given, to agree a same-day publication date with the Secretariat. Both the date of adoption and date of publication should be clearly marked on the cover of the published reports. National language versions of the published reports should be made available on domestic websites and rendered easily accessible. The location of reports (i.e. the internet link) should be communicated to the Secretariat.

¹ Report made public on 29 May 2012.

² Report made public on 2 July 2012.

VI. Fourth Evaluation Round – feedback on the first evaluation visits

17. The plenary received feedback on the first visits organised in the framework of the Fourth Evaluation Round – Poland, Slovenia and the United Kingdom – from the delegations concerned, evaluators present at the current meeting and the Secretariat. Copies of the programmes for those visits were distributed (Greco Eval IV Inf (2012) 1).

18. It was felt that the following elements would provide useful insight for the successful preparation of forthcoming evaluations.

- i. The guidelines provided by the secretariat for the preparation of an on-site visit – including on the structure of the programme – are sent to the authorities (country under evaluation) at an early stage so they can prepare a first draft programme which is then sent to the secretariat for consultation of the GET as regards its content.
- ii. In the programmes, the grouping together of specific profiles in panels will depend on the set up in each country and requires careful thought. The secretariat is in a position to provide constructive input based on the preparatory work they carry out based on the documentation studied. During the first visits, for example, grouping together members of parliament (MPs) from the ruling parties with MPs from opposition parties had been successful in one of the first visits. Grouping together judges from all court levels had been helpful in one case whereas, in another, such a formation had been less successful.
- iii. Securing meetings between the GET and representatives of the media and civil society bodies can prove problematic for the countries under evaluation – the authorities should do all they can to arrange such meetings, calling on assistance from the secretariat if necessary as there may, for example, be ethical barriers (independence of the press) to authorities soliciting the participation of specific journalists.
- iv. It is important that meetings with outside observers from the media and civil society are scheduled early in the programme as they often prompt questions that are not raised during the preparatory stage.
- v. Programmes should have some in-built flexibility so that priorities can be adapted and interviews added when the GET is on site.
- vi. It is essential to provide time on the last day for a final roundtable between the secretariat and the GET - considerable thought is given at that stage to how to assist the country in solving problems identified.
- vii. If during the preparation stage it becomes clear that additional time will be needed, the duration of a visit can be extended.
- viii. To free up time during a visit, simultaneous interpretation is preferable – countries under evaluation might wish to consider covering the cost of providing the necessary booth, it being understood that interpreters are recruited by the Council of Europe and paid for from GRECO's budget.
- ix. The GET needs to prepare thoroughly before a visit by reading the documentation sent by the secretariat (replies to the questionnaire, legislation, the draft descriptive part of the evaluation report (DDP), previous evaluation reports on the country) so they can identify issues that require clarification during the visit (no need to raise issues that are adequately covered in the written materials) and request suitable adaptations to the draft programme.
- x. Timely sharing with the authorities of the DDP prepared by the secretariat on the basis of the replies to the questionnaire is essential so that they can fully brief

participants in the programme on the focus of the evaluation round and on issues they may be asked to clarify.

- xi. Similar situations might lead to similar recommendations but it would be necessary in many cases for recommendations to be more tailor-made. It could be borne in mind that it had already been decided (WP-Eval IV Final Activity Report endorsed by GRECO) that the absence in a given country of a feature referred to in the questionnaire must not in all cases lead to a recommendation to fill that "gap" – the situation will need to be assessed in light of the structure of a system as a whole and the particular problems and needs of each country. It would not be necessary so much to ensure that recommendations in some areas are worded consistently but that they are fair.
- xii. Standards will not be the same for judges, prosecutors and, in particular, parliamentarians - due to their status as directly elected representatives (with different levels of loyalty and obligations).

19. The President reminded GRECO representatives of the importance of their role in managing the preparation of an evaluation. Good communication and information sharing between the Secretariat, the GET and the Head of delegation of the member State under evaluation were prerequisites for a successful evaluation. GRECO was the best placed expert body to meet the challenges raised by the scope and nature of the themes under review and would have a unique opportunity to set meaningful standards in its Fourth Evaluation Round.

VII. Fourth Evaluation Round - round table on prevention of corruption in respect of judges and prosecutors

20. A Round table was held to provide background and guidance in order to assist GRECO in defining its position and shaping its jurisprudence in respect of this theme of the Fourth Evaluation Round.

21. Three keynote speakers drew on their specific professional background, knowledge and experience to illustrate in particular the characteristics of the mechanisms in place in their own countries, bearing in mind the focus as regards prevention measures for judges and prosecutors contained in GRECO's Fourth Evaluation Round Questionnaire.

22. The first speaker was **Mr Duro SESSA**, Justice of the Supreme Court, President of the Association of Judges (Croatia). It was his opinion that any legal framework should aim at minimising the risks of corruption and take account of the risk of false allegations. The various international sources available identified a set of "ten commandments" : transparency in the selection of judges; adequate remuneration; independence and accountability; coherent system of case management; performance standards; consistent and objective criteria in the administration of justice; clear ethical markers and guidelines; common vision and leading by example; full transparency; learning from past lessons.

23. In Croatia, the legal frame governing the judiciary was laid down in the Constitution, as revised in 2010. Large components stem from the European Union pre-accession process. Under the Constitution, courts exercise judicial power, judges are vested with judicial authority, court proceedings are public, judicial office is permanent, judges enjoy immunity, the terms for termination of judicial office are defined and a State Judicial Council (SJC) was established. The SJC is responsible for the appointment and career of judges. It is composed of eleven members, seven are judges elected by all judges, two are Law Faculty members and two are members of parliament, one appointed by the ruling party, one by the opposition. The SJC elects its President and deputy President from among the members who are judges. It is responsible for the appointment of judges, appointment and dismissal of court presidents, transfer of judges, disciplinary matters, establishing the methodology for evaluating judges and

supervision of declarations of assets. All first instance judges pass through the Judges' Academy and candidates for promotion are recruited from the first instance courts. Individuals from outside the judiciary can be appointed to the Supreme Court. The main principle is to ensure the highest degree of objectivity – it is a system that works well.

24. Ensuring respect of ethical principles and rules of conduct is part of the remit of the SJC which decides when to initiate disciplinary proceedings. The Code of Judicial Ethics was first issued in 1999 – the first in Europe was in Italy in 1994. It had been delivered by the Association of Croatian Judges and GRECO's President had been heavily involved in its preparation. In 2006 a new code applicable to all judges regardless of whether they are members of the Association of Croatian Judges was established. The main purpose of a code of ethics is to help judges resolve dilemmas they are faced with as regards their conduct and to inform the public as to what conduct they should expect from a judge.

25. The Code of judicial ethics provides for the setting up of a council of judges within the court of appeal to issue opinions on the conduct of judges. Anyone can ask for such an opinion, but the public (including lawyers) rarely do so, possibly because of a certain reticence to trust in the impartial decisions of a body composed of judges.

26. The Law on the prevention of conflicts of interest applies to the executive and legislative powers but not to the judiciary to whom the Law on Courts applies. Its basic principle is that judges are prohibited from using their authority or that of the court for personal gain. Personal gain does not include gain by family or friends, so Article 8 of the Code of Judicial Ethics includes that notion. The Criminal and Procedural Laws provide for the waiver of a judge (removal from a case) in case of a breach and cases can be delegated to another court when impartiality cannot be guaranteed or there is a conflict of interests.

27. Under the Law on the SJC (Article 8) the engagement of a judge in activities which are incompatible with judicial duties is a disciplinary offence upon which the SJC decides. Moreover, the Law on Courts (Article 95) defines what duties or activities are prohibited. The Code of Judicial Ethics reiterates those prohibitions. There are unavoidably some grey zones. For example, to determine if there is a potential conflict of interests, one needs to look at the social context - the implications of participation in the board of a football club might well be different to those of participation in an archery club. It is very important that declarations of interests are fully disclosed to the public.

28. Since 2011, every judge is obliged to provide an annual declaration of assets (approximate value and how they were gained), changes need to be reported within a month. The declarations are held by the SJC. Assets and liabilities are checked against income. The SJC can also carry out checks against information held by the tax authorities. Omitting to submit a declaration is a disciplinary offence. Declarations are not automatically made available to the public in order not to jeopardise a judge in a particular case, revealing weaknesses risks increasing chances for those weaknesses to be exploited. Requests for duly motivated access can be addressed for decision to the SJC.

29. **Ms Andrea TITZ**, Senior Prosecutor, Vice-President of the Judges' Association and Chair of the Working Group on Judicial Ethics (Germany), opened by explaining that in Germany judges and prosecutors are among the most trusted professionals. There was nevertheless agreement that general rules of conduct and awareness of ethical principles are essential in order to give appropriate weight to the judicial function within a state governed by the rule of law.

30. Each *Land* has competency for its judiciary. Prosecutors are civil servants and therefore part of the executive power, they depend on instructions from their hierarchy, ultimately the Minister of Justice of the *Land* concerned. Prosecutors are however considered – even by the Federal Constitutional Court - as being part of the judiciary.

That is why in some *Länder* one can change between the position of judge and prosecutor during the course of one's career.

31. In some *Länder* judges and prosecutors are selected from among the most successful law graduates by the Ministry of Justice of the *Land*. The organ of co-determination (*Präsidentialrat*) is consulted by the Ministry when a promotion is to be decided. If no agreement is reached, the Ministry takes the final decision but in practice the opinion of the *Präsidentialrat* is not challenged.

32. In other *Länder*, new judges and those applying for promotion are elected by a *Richterwahlausschuss*, an organ consisting of judges, lawyers and members of the *Land* parliament elected by the latter. In such a set up the Ministry of Justice of the *Land* appoints the elected judge. A similar structure composed of the ministers of the *Länder* and an equal number of members elected by the Bundestag exists at federal level. It is responsible for the election of new judges of the federal courts.

33. Whether they are elected or appointed, judges and prosecutors have life tenure. The fact that in many *Länder* appointments and promotions are made by the Minister of Justice of the *Land* has been criticised by European institutions and some Associations of judges in Germany. Attempts by the latter to gain support for a model of self-administration for the judiciary have so far been unsuccessful even though there is unreserved political support for the principle of independence of the judiciary.

34. The Constitution and the Law on German Judges (*Deutsches Richtergesetz*) lay down the rules of conduct for judges and prosecutors. The Constitution attributes all judicial powers to the judiciary and judges are to exercise their powers independently and be bound only by law and their conscience – this is not only understood as attributing power to judges but also high responsibility and a duty to fulfil one's tasks with all due respect and thoroughness. The absolute principle of independence is repeated in article 25 of the Law on German Judges and pursuant to article 26 any supervision must not interfere with the judge's independence. The Law stipulates that Judges are to behave in their professional and private lives in a way that does not endanger trust in their independence (article 39). In the past Germany had experienced one of the worst examples of how a rigid code of conduct can be misused by politics to influence and manipulate the judiciary. For those historical reasons every effort was made when drafting the current Constitution to avoid the possibility of undue political or private influence on the judiciary. This also explains why there are very limited possibilities for bringing disciplinary actions against a judge.

35. In the light of this resistance, there is no written code of professional ethics for judges and prosecutors. The German Judges' Association has compiled a set of non-binding "theses for further discussion" that have resulted from its discussions on professional ethics and it took quite some effort to obtain consent for putting those in writing.

36. As a consequence there are no measures to ensure compliance, and training is not provided on professional ethics. The German Judges' Association has nevertheless given a number of lectures and held discussions throughout the country when it has been invited to do so.

37. For similar reasons, no written definition of a conflict of interests is available. There are some rules in the respective procedural regulations of civil and criminal law concerning the (automatic) exclusion of a judge from a case and the possibility of rejection on grounds of bias. In practice, these are considered to be satisfactory despite the fact that certain notions can be open to interpretation.

38. No judge can be forced to reveal his or her financial situation, if s/he has had financial transactions with a party or a victim or an accused in a case s/he is dealing with, the judge has to consider whether to withdraw from the case or not. The salary of a judge or prosecutor is legally regulated and published. Permission to take on

additional employment has to be obtained from the ministry of justice and the source and amount of that additional income has to be published but nothing obliges a judge to reveal assets or liabilities held.

39. Despite their independence, judges and prosecutors are bound by disciplinary law. They cannot be prosecuted for a breach of their duties if the "core" of their jurisdiction is concerned, i.e. they cannot be held personally responsible if their superior is dissatisfied with the content of a judgement or with the amount work done on a case or the speed with which it is dealt. The core of the jurisdiction can only be a matter for prosecution if a judge reaches a false judgement. The Law on German Judges refers to the Civil Servants' Law of the *Länder* and the Federal Civil Servants' Law – even though neither judges nor prosecutors have civil servant status - to establish a list of duties which when violated can lead to disciplinary actions (if the core of the judge's jurisdiction is not concerned). Those duties are duties arising from oath (to fulfil their duties true to Constitution and Law, to let their judgement be guided only by their knowledge and their conscience, impartially and without bias and to serve only truth and justice), the duty of allegiance to the State and to the Constitution, the duty of restraint, the general duty of confidentiality and the duty of confidentiality as regards discussions leading to a verdict and the duty to seek permission before taking on additional employment.

40. If disciplinary measures are warranted, proceedings can only be initiated by the direct superior of the judge (normally the President of the court). The judge has the right to be heard. If a breach is found, the superior can either formally reprimand the judge (the only disciplinary measure that can be taken by the superior him/herself) or the superior must bring the action before the *Richterdienstgericht* – a special court consisting of several judges chosen from among the judges of the respective court by the *Präsidium* (the co-decision organ of the court). The President and deputy of the court cannot be amongst the members of the *Richterdienstgericht*. If a breach is found to be serious the *Richterdienstgericht* can impose a fine on the judge, order a reduction in salary (maximum of one fifth of the monthly salary for a maximum of three years), demote the judge or remove the judge from office. Disciplinary proceedings have very seldom been brought against a judge in Germany.

41. **Mr Colin NICHOLLS**, Queen's Counsel (United Kingdom), Honorary life President and former President of the Commonwealth Lawyers' Association, addressed GRECO in his capacity as Representative of Transparency International. To put the current debate into context, he first referred to his involvement in work that had led to the preparation of a set of guidelines on parliamentary supremacy and the independence of judges which later become the *Commonwealth Latimer House Principles on the Three Branches of Government*, now part of the *Fundamental Values of the Commonwealth*. Chapter IV of the Principles "Independence of the Judiciary" declares that an independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. It recommends that:

- a) judicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process with equality of opportunity and the avoidance of discrimination;
- b) arrangements for appropriate security of tenure and protection of levels of remuneration must be in place;
- c) adequate resources should be provided for the judicial system to operate effectively without any undue constraints, which may hamper the independence sought;
- d) interaction, if any, between the executive and the judiciary should not compromise judicial independence.

42. The aforementioned chapter furthermore states that judges should be subject to suspension or removal only for reasons of incapacity or misbehaviour rendering them unfit to discharge their duties. Disciplinary procedures should be fairly and objectively administered and include appropriate safeguard to secure fairness. Court proceedings should, unless the law or overriding public interest otherwise dictates, be open to the

public, and superior Court decisions should be published and accessible to the public and be given in a timely manner. The Principles recommend that codes – or guidelines – of conduct should be drawn up for judges as well as for all public servants and that they should be subject to regular review.

43. He further referred to relevant work, besides that of the Council of Europe, carried out in other fora; the *Basic Principles on the Independence of the Judiciary* endorsed by the United Nations General Assembly in 1985; the *Framework on Promoting Good Governance and Combating Corruption (The Framework Principles)* published by a Commonwealth Expert Group in 1999 and the *Bangalore Principles of Judicial Conduct*, which provide a model for judicial codes, endorsed in 2003 by the member States of the UN Commission on Human Rights. All, including the United Nations Convention against Corruption (UNCAC) confirm in varying detail the principles that were being discussed by GRECO. Transparency International's *Global Report on Judicial Corruption* (2007) and the *UNODC's Resource Guide on Strengthening the Integrity and Capacity of the Judiciary* (2011) further develop the theme.

44. He found it disturbing that, as recently as 2010, in *Resolution 1703* the Parliamentary Assembly of the Council of Europe had deplored the fact that judicial corruption was 'deeply embedded' in many Council of Europe states. It referred specifically to the findings of the *Transparency International 2009 Global Corruption Report* where in some Council of Europe member States it is the justice system itself which is perceived by the population as being the most corrupt institution. In the view of the Parliamentary Assembly, the concern was heightened by a tendency in some States 'to deny outright that any judicial corruption exists within them'.

45. Before the reform of the judicial system in the United Kingdom, even though it was generally accepted that there was no corruption amongst judges and little, if any, known corruption in the court processes, it was however recognised that in theory and in practice the separation of powers barely existed. The Lord Chancellor, who was head of the judiciary, was at the same time a member of all three organs of government, the legislature, executive and judiciary. He sat in Parliament, was a member of the Cabinet, presided over the final court of appeal and appointed judges. Similarly, the Attorney General who had the final word in deciding whether to prosecute was a Member of Parliament and attended Cabinet meetings when required.

Reform of the Judicial System in the United Kingdom

46. By 2003, the UK had published radical plans for reform. The Lord Chancellor declared that judicial independence was too important to be left unspecified, un-codified and un-written. Judges were to have their independence enshrined in law and the statutory right to independence was to be enforced by a Secretary of State for Constitutional Affairs.

47. The 2005 *Constitutional Reform Act* transferred the powers of the Lord Chancellor to the Secretary of State of Constitutional Affairs. It transferred his judicial functions to the Lord Chief Justice who became President of the Courts, Head of the Judiciary and responsible for the training, guidance and the deployment of judges and represented the views of the judiciary to Parliament and Ministers.

48. The Act imposes a duty on Government Ministers to uphold the independence of the judiciary and expressly bars them from trying to influence judicial decisions through any special access to judges. The Lord Chancellor must have regard to the need to defend that independence and to the need for judges to have the support necessary for them to be able to exercise their functions.

Judicial Independence

49. The Act established an independent Supreme Court with its own independent appointments system, staff and budget. A Chief Executive ensures the Court's resources

are used to provide an efficient and effective system to support the Court in carrying out its business.

50. The Lords of Appeal in Ordinary who were previously members of the Judicial Committee of the House of Lords became the first Supreme Court Justices. Since, the President, Deputy President and justices of the Supreme Court are selected by the Supreme Court Selection Committee. The Committee reports to the Lord Chancellor who notifies the Prime Minister, who recommends appointments to The Queen.

51. A justice of the Supreme Court holds office during good behaviour but may only be removed on the address of both Houses of Parliament.

Other Courts

52. An independent Judicial Appointments Commission is responsible for selecting candidates to be judges in other courts. The Commission consists of fifteen members appointed by open competition except for three judicial members appointed by the Judges Council. The members of the Commission come from a wide background and include members of the public, legal professions, tribunals, the magistracy and the judiciary. Appointments are required to be made solely on merit and the Commission is required to have regard to diversity. Since 2003, the Ministry of Justice has been striving to widen the pool of candidates in order to obtain a judiciary that more visibly reflects contemporary society.

Accountability and the Discipline and Removal of Judges

53. The Lord Chancellor and Lord Chief Justice are jointly responsible for the system of considering complaints about the judiciary.

54. They may remove High Court and Circuit Court judges for misbehaviour or inability to fulfil their duties. They may terminate the appointment of a Recorder (a part time judge) on the same grounds including misbehaviour which includes failure to comply with training requirements, persistent failure to comply with sitting requirements without good reason, sustained failure to observe standards reasonably expected for the holder of such office. The exercise of these disciplinary powers is governed by regulations made by the Lord Chief Justice.

55. They are assisted by the Office of Judicial Complaints, which is an office of the Ministry of Justice whose status and governance is set out in an Memorandum of understanding between the Ministry of Justice, the Directorate of the Judicial Office for England and Wales and the Office of Judicial Complaints. The complaints are investigated by the Office of Judicial Complaints and may be reviewed by the Conduct Ombudsman.

The Guide to Judicial Conduct in England and Wales

56. The choice of the word "Guide" indicates that it contains guidance, it is flexible, open to interpretation according to its content and, most importantly, judges who face problems relating to conflicts of interest are encouraged to consult with their colleagues. The guidelines it contains are very much framed along the lines of the Bangalore Principles of Judicial Conduct but they also include a great deal of stimulating discussion. The Guide was most recently reviewed in 2011 and now includes, for example, a reflection on the use of modern social media.

57. In 2011, Transparency International published the results of its *UK National Integrity Survey*. It describes the status of the judiciary and the courts as robust. But it does note serious concerns about the effect of a reduction in public spending, the number of courts being closed and the limitations placed upon legal aid.

58. The most significant change recently in the United Kingdom had been the adoption of new bribery legislation – the *Bribery Act 2010* which applies to judges and prosecutors.

59. The ensuing discussions highlighted the extent to which principles applied could only be analysed as to their effectiveness by looking at the context in its entirety in each country. One prime example was the question of immunity which would depend very much on the set of safeguards in place. The body in charge of supervising compliance with rules would in some cases be best placed within the judiciary, in others it would be of the same structure and composition as the body responsible for appointments, another format would consist of a body within the judiciary responsible for establishing breaches and another outside responsible for initiating proceedings. It was generally considered that ethical guidelines should be elaborated within the profession.

VIII. Fourth Evaluation Round – Election to the Bureau

60. Under Rule 9 of GRECO's Rules of Procedure, GRECO elected Zorana MARKOVIC (Serbia) to fill the seat that had become vacant in the Bureau.

IX. Fourth Evaluation Round – Composition of teams

61. GRECO approved the composition of the team in charge of the Fourth round evaluation of the Slovak Republic (Greco Eval IV (2011) 1 bil. of 20 April 2012).

X. Gender equality policy of the Council of Europe

62. The Council of Europe had called on all of its bodies to examine whether there were issues that should be treated in a gender-specific way, GRECO would hold a *tour de table* on the issue at its 56th plenary meeting in June. In preparation of those discussions, Anna MYERS, temporary member of GRECO's secretariat provided the plenary with elements for reflection on how a gender perspective may impact on the issue of corruption generally and/or inform GRECO's work – see [Appendix III](#). What had struck her most when researching the question was that one could not deal with it anecdotally. The research was disproving previous biases and identified new areas for reflection. It was an issue that was maturing and becoming more sophisticated. There was a shift of focus from the developing world to the developed world. Looking into relationships between women and corruption did not give many results, more was to be found by looking at the relationship between women, democracy building and corruption.

63. Simon TONELLI, Head of the Council of Europe's Gender Equality Division, underlined that the Secretary General of the Council of Europe attached high importance to gender equality issues as reality did not necessarily reflect the aspirations of legislation on the issue. One strategy to bridge that gap was to mainstream gender equality issues into policy making throughout both the Council of Europe and within national governments. The role of his team was to support the work of bodies of the Organisation that wished to include a gender equality perspective in their work.

64. The Committee of Ministers had made a number of important statements on the issue, for example the Madrid declaration urging member States to put gender equality at the heart of their policy making process. Taking account of a gender perspective in GRECO's work would probably require a change of approach, one would need to look into how certain policies might impact differently on women and men. It was helpful if States disposed of disaggregated data. It was generally assumed that policies would apply equally to women and men, but implicit in that approach was a lack of investigation into the different effects on women and men. Inequalities persisted when the same treatment was reserved for different groups for whom reality was different. Moving from a position of gender blindness to one of gender sensitivity was therefore encouraged. As part of a transversal programme within the Council of Europe, Steering Committees were now required to designate a gender equality rapporteur to keep an eye on whether the

activities undertaken take account of a gender equality perspective. In, for example, the Steering Committee on the Media and New Communication Services (CDMC) a major shift in emphasis in the activities it carried out had been undertaken due to greater sensitivity to how its proposals were relevant to and impacted on women and men.

65. The Executive Secretary said that the Council of Europe's anti-corruption conventions could be considered as gender blind and it was not easy to identify areas of GRECO's work which might have a gender perspective as GRECO did not deal so much with the victims or perpetrators of corruption. However, in recommendations from previous rounds GRECO had asked States to carry out research to identify certain risk areas and one could well imagine that member States could incorporate a gender perspective in research of that nature.

66. The President felt that GRECO evaluation visits might be a good occasion to ask a few relevant questions and for the GET to take note of any area of concern as regards gender equality. The information gathered could be reported to the plenary.

67. Delegations were asked to send details to the Secretariat (anna.myers@coe.int) of any national organisations or research that they knew of. Furthermore, they would be sent a short list of questions to prompt and assist them in preparation of their participation in the round table to be held at GRECO 56.

XI. Anti-corruption technical assistance provision

68. The plenary was briefed by Ardita ABDIU from the Council of Europe's Department of Action against Crime (Economic Crime Unit) on current work. The Unit had a staff of 4 to 5 project officers/managers in addition to the field teams in place in Serbia, Kosovo, Albania and soon Turkey. A significant proportion (some 90%) of the funding for technical assistance and cooperation projects managed by the Unit was provided by the European Commission. Projects currently under preparation or implemented included:

- A project against corruption in Albania (PACA – Albania) with two components: implementation of anti-corruption strategies and policies (including those related to the education sector which was very prone to corruption) and anti-money laundering had been running since 2009. Within the project, the Council of Europe was currently taking a lead in looking into the question of limiting immunities against prosecution and risk-analyses were being carried out on the health and education sectors, on registration of companies and property and also permits.
- In Serbia, a confiscation of assets and assets recovery project would run for 36 months and an Anti-money laundering (MOLI) project would run for a further 3 years. A project focusing on the judiciary (strengthening capacities of the judiciary in corruption and economic crime-related cases, as well as preventing corruption within the judiciary system) was planned for the second half of 2012.
- The Eastern Partnership project for good governance and prevention of corruption, part of a facility package agreed between the Council of Europe and the European Commission – a regional project to provide technical assistance in governance, prevention of corruption as well as other areas such as elections, justice and cyber-crime – involved Azerbaijan, Armenia, Georgia, Ukraine, Moldova and Belarus. The Economic Crime Unit was working with the countries involved on implementation and design of anti-corruption policies, their monitoring, strengthening legislative reforms and reinforcing capacities within law enforcement and the judiciary. Pilot activities – specially designed to address specific country needs – were also part of the project, for example in the field of political party financing in Moldova and the anti-corruption plan of Ukraine. Support for recommendations issued by GRECO and other relevant international bodies would also be provided.

- A new area of work was evolving in the context of Council of Europe outreach, promoting its values and standards to regions beyond Europe, e.g. the programme "Strengthening Democratic Reform in the Southern Neighbourhood" involving Morocco, Tunisia and Jordan. Among priorities identified by the countries themselves were anti-corruption and asset recovery. A concept document on Morocco would soon be published addressing the intervention areas agreed on and it could be noted that Morocco had expressed interest in establishing contacts with GRECO. Also of note was a move by the country's anti-corruption agency from a preventive body to a law enforcement body.
- A project – the first of its kind - had been launched in Kosovo in February 2012 to carry out assessments based on GRECO-style tools and methodology (two components: anti-corruption and anti-money laundering and countering terrorist financing).
- A future project was planned to strengthen the capacities of the Inspection Board at the Prime Ministry in Turkey.

69. The total budget for the full time-span of the projects mentioned was approximately 8 million Euros. The Ordinary Budget of the Council of Europe also provided for one-off action in response to specific needs of member States (review of legislation, training requirements, ...) and over the last 6 months assistance had been provided to Turkey providing support for a so-called "Ethics day", to the Russian Federation for training civil servants and public officials on identifying and dealing with elements of corruption in their work – in this context a draft guide book entitled 'Anti-corruption concepts' had been prepared and would be published hopefully by end 2012. It was a tool that could be adapted to other countries. And, finally, assistance had been provided to the anti-corruption agency in Kosovo for drafting an anti-corruption plan and designing performance indicators for the overall anti-corruption policy.

70. A manual with tools for designing, implementing and monitoring anti-corruption policies had also been developed by a group of experts from Armenia, Azerbaijan, Georgia, Ukraine, Moldova and Belarus. There had also been input from civil society representatives. The manual included tools, lessons learned and performance indicators.

71. Two typology studies were also due to be issued. One - on the underlying causes of corruption - would look at the systems in place and analyse failings in set-ups, regulatory framework, accountability, complaints mechanisms, as well as the socio-economic situation. The idea for the study had stemmed from discussions within the Eastern Partnership panel in 2010. The second would deal with the laundering of the proceeds of corruption. In that field, the Unit worked closely with experts who participate in the Financial Action Task Force (FATF), the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), as well as with national Financial Intelligence Units (FIUs).

72. Projects managed by the Council of Europe underwent several levels of evaluation. Each project contract included a description of action (DOA) that served as a basis for evaluation – mid-way and on completion - by one independent expert selected by the donor and one by the Council of Europe. Secondly, audit and cost-efficiency evaluations were carried out by the Department of Internal Oversight (DIO). Thirdly, in the case of any project agreement with the European Union, result oriented monitoring (ROM) must be carried out by a set of independent consultants three to four times during the time-span of a project.

73. Full details of the Unit's work in progress as well as calls for interest from short-term expert consultants were available at the following address: www.coe.int/corruption.

74. The President expressed his appreciation that the results of GRECO's work served as a facilitator for the Economic Crime Unit's technical assistance and capacity building programmes.

XII. Exchange of views - Kazakhstan

75. An exchange of views was held with Yerlan TUYAKBAEV, Head of the Legal Support and International Cooperation Department of the Financial Police and Aizhan BERIKBOLOVA, Senior Inspector of the Financial Police who reported in detail on the numerable components of the anti-corruption policy of Kazakhstan.

76. Kazakhstan's commitment to combating corruption in the public and private sectors could be observed through its policy decisions and the arsenal of legislative and law enforcement measures adopted in the last decade and which were presented to the plenary in detail. It was explained that many were heavily inspired by European models and international standards and reflected the strong political will of the country's President. The first piece of legislation had been a law on the fight against corruption (1998), followed by a law on the public service (1999) which included a reporting obligation. The latter law had been complemented by the adoption of a code of conduct for public servants in 2005. The Criminal Code contained a list of corruption-related offences. Moreover, an anti-money laundering and countering the financing of terrorism law had been adopted and a Committee for Financial Monitoring set up. A five yearly state programme against corruption was currently in its fourth version and laid down policy as regards further legislative improvements, measures to be taken to reduce the occurrence of corruption, the improvement of law enforcement and judicial systems, strengthening international cooperation in the field, wide awareness raising efforts and cooperation with civil society bodies.

77. State structures involved in the fight against corruption, included the Agency on the fight against economic and corruption crimes with its 16 regional divisions that had broad powers in the fields of prevention, detection and investigation of corruption cases.

78. Mr Tuyakbaev and Ms Berikbolova reiterated the conviction of their authorities that solid international cooperation was the key to guaranteeing an effective fight against corruption. Kazakhstan remained convinced that accession to GRECO would offer an ideal opportunity for such cooperation and in its decisions GRECO welcomed the country's interest in joining.

XIII. Enlarged Partial Agreement on Sport (EPAS)

79. The Plenary was informed by Stanislas FROSSARD, Executive Secretary of EPAS of recent work in the field of match-fixing. The Committee of Ministers had adopted Recommendation CM/Rec(2011)10 on promotion of the integrity of sport against manipulation of results, notably match-fixing in September 2011 and at the same time had invited EPAS to carry out a feasibility study on the possible preparation of a binding legal instrument. The intention at present was that a Council of Europe convention on the issue would not be a criminal law convention (it would refer to national law and international treaties as regards criminal elements), it would rather serve to set up coordination and cooperation between the public authorities, the sports movement and betting operators to put in place preventive measures. The Council of Europe was taking the lead in this area and any convention developed should be open to accession by non-European States as the problem was a worldwide one. Council of Europe Ministers of Sport, meeting in Belgrade had strongly supported the initiative as had representatives of the international sports movement and the European Union who had also participated. It could also be noted that Recommendation 1997 (2012) of the Parliamentary Assembly of the Council of Europe on the need to combat match-fixing called on the Committee of Ministers to support the preparation of a convention. It was hoped that a decision for the work on preparing a draft convention to go ahead would be issued by the Committee of Ministers.

80. GRECO was also informed that there was considerable political support for EPAS to work in the field of good governance in sport, which would need to be dealt with separately from the issue of match-fixing. If it were to go ahead, work in this field would be lead by the European Committee on Crime Problems (CDPC). Initially, consultations would be held, including with GRECO, in order to establish whether the existing Criminal Law Convention on Corruption (ETS 173) could be applied to corruption in the non-profit private sector, therefore to the world of sport. GRECO's President recalled that the Bureau had been of the opinion that the non-profit private sector was not covered by ETS 173.

81. EPAS was also assisting UNODC in looking into the extent to which the United Nations Convention against Corruption might apply to the criminal law aspects of match-fixing. National legislation collected by EPAS on the topic would be shared. UNODC had also initiated a process to look into whether UNCAC might be used as a framework to mainstream anti-corruption safeguards related to the organisation of major public events, including for example the Olympic Games and world football championships (processing of candidates, building of new infrastructures, relations with sponsors, etc).

XIV. Cooperation with the European Union

82. GRECO welcomed that, in the absence of any visible progress concerning EU participation in GRECO, the Secretary General of the Council of Europe was paying attention to this issue in his current and forthcoming high-level contacts with the European Commission.

83. The plenary was pleased to note that GRECO would be invited to be represented, as an observer, at the third and subsequent meetings of the Group of Experts on Corruption tasked with assisting the Commission in drawing up the first edition of the EU Anti-Corruption Report. Two GRECO representatives, Elena KONCEVICIUTE (Lithuania) and Goran KLEMENČIČ (Slovenia) were among the experts participating in the Group which would meet four times a year. The cross-cutting theme of public procurement had been chosen for the EU Anti-Corruption Report and indicators (benchmarks) against which each member States would be evaluated had been fixed. In addition the report would look into specific corruption related issues of concern in each member State on the basis of information provided by a network of national correspondents. The composition of the Group was diverse, including representatives from the NGO community, from academia as well as national practitioners. It was proving difficult to avoid some duplication of work as GRECO had already carried out some degree of – and sometimes very in-depth – evaluation in many fields of relevance to the report.

XV. Adoption of decisions

84. The decisions of the 55th Plenary Meeting were adopted, as they appear in document Greco (2012) 9E.

XVI. Forthcoming meetings

85. The Bureau held its 60th meeting in the margins of the present plenary meeting (14 May 2012). GRECO's 56th Plenary Meeting would be held in Strasbourg on 20 – 22 June 2012 (three day meeting).

APPENDIX I
LIST OF PARTICIPANTS

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COUNCIL OF EUROPE DEVELOPMENT BANK
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Apologised / Excusée

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Policy Advisor, International Anti-Corruption Academy

ORGANIZATION OF AMERICAN STATES (OAS)
ORGANISATION DES ETATS AMERICAINS (OEA)
Apologised / excusée

RAPPORTEURS

Third Round Interim Compliance Reports **Rapports de Conformité intérimaires du Troisième Cycle**

BELGIUM / BELGIQUE
Ms Clàudia CORNELLA DURANY (Andorra / Andorre)
Mme Doris WOLTZ (Luxembourg)

DENMARK / DANEMARK
Ms Helena PAPA (Albania / Albanie)
Mr Don O'FLOINN (Netherlands / Pays-Bas)

Second Third Round Compliance Reports **Deuxièmes Rapports de Conformité du Troisième Cycle**

ESTONIA / ESTONIE
Ms Viktória SÓOS (Hungary / Hongrie)
Ms Jane LEY (United States of America / Etats-Unis d'Amérique)

ICELAND / ISLANDE
Mr Dražen JELENIĆ (Croatia / Croatie)
Mr Walo VON GREYERZ (Sweden / Suède)

SLOVENIA / SLOVENIE
Mr Kaarle LEHMUS (Finland / Finlande)
Mr Markus BUSCH (Germany / Allemagne)

UNITED KINGDOM / ROYAUME-UNI
Mr Georgi RUPCHEV (Bulgaria / Bulgarie) – **Apologised / Excusé**
Mr Aidan MOORE (Ireland / Irlande)

**ROUND TABLE ON THE PREVENTION OF CORRUPTION - JUDGES AND PROSECUTORS /
TABLE RONDE SUR LA PREVENTION DE LA CORRUPTION - JUGES ET PROCUREURS**

Mr Djuro SESSA
Judge, Supreme Court, ZAGREB

Mr Francisco JIMENEZ VILLAREJO
Prosecutor, MALAGA – **Apologised / Excusé**

Mr Colin NICHOLLS (Representative of Transparency International)
Barrister and Queen's Counsel, LONDON

Ms Andrea TITZ
Vice-President of German Judges' Association, MUNICH

EXCHANGES OF VIEWS / ECHANGES DE VUES

KAZAKHSTAN

Mr Yerlan TUYAKBAEV
Head of the Legal Support and International Cooperation Department of the Financial Police

Ms Aizhan BERIKBOLOVA
Senior Inspector of the Financial Police

**ENLARGED PARTIAL AGREEMENT ON SPORT (EPAS) /
ACCORD PARTIEL ELARGI SUR LE SPORT (APES)**

Mr Stanislas FROSSARD
Executive Secretary / *Secrétaire Exécutif*

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

Mr Wolfgang RAU, Executive Secretary of GRECO / *Secrétaire Exécutif du GRECO*

Ms Elspeth REILLY, Personal Assistant to the Executive Secretary / *Assistante Particulière du Secrétaire Exécutif*

Administrative Officers / Administrateurs

M. Christophe SPECKBACHER
Ms Laura SANZ-LEVIA
Ms Sophie MEUDAL-LEENDERS
Mr Michael JANSSEN
Ms Liubov SAMOKHINA
Mr Yüksel YILMAZ
Ms Anna MYERS

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Ms Penelope PREBENSEN, Administrative Assistant / *Assistante Administrative*
Mme Laure PINCEMAILLE, Assistant / *Assistante*
Mme Marie-Rose PREVOST, Assistant / *Assistante*

Webmaster

Ms Simona GHITA, Directorate General 1 - Human Rights and State of Law / *Direction générale des droits de l'Homme et état de droit*
Mme Marie-Rose PREVOST, GRECO

Interpreters / Interpretes

Ms Sally BAILEY-RAVET (14-15 May)
Ms Chloé CHENETIER
Mr Grégoire DEVICTOR (16 May)
Ms Julia TANNER

APPENDIX II

AGENDA

1. Opening of the meeting / *Ouverture de la réunion* **09h30**
2. Adoption of the agenda / *Adoption de l'ordre du jour*
3. Information from the President, Delegations and the Executive Secretary
Informations du Président, des Délégations et du Secrétaire Exécutif
4. Examination and adoption of the Third Round *Interim* Compliance Reports on:
Examen et adoption des Rapports de Conformité intérimaires sur :
 - **Belgium / Belgique**
 - **Denmark / Danemark**
5. Examination and adoption of the Second Third Round Compliance Reports on:
Examen et adoption des Deuxièmes Rapports de Conformité du Troisième Cycle sur :
 - **Estonia / Estonie**
 - **Iceland / Islande**
 - **Slovenia / Slovénie**
 - **United Kingdom / Royaume-Uni**
6. Gender equality policy of the Council of Europe : introduction from Simon Tonelli (Head of Gender Equality Division). Initial reflection on how a gender perspective may impact on the issue of corruption generally and/or inform GRECO's work: briefing from the Secretariat
Politique du Conseil de l'Europe relative à l'égalité entre les femmes et les hommes : introduction par Simon Tonelli (Chef de la Division Egalité entre les femmes et les hommes). Réflexion liminaire en ce qui concerne l'impact éventuel d'une perspective de genre sur la question de la corruption en général et/ou sur le travail du GRECO: briefing par le Secrétariat
(Monday / lundi, 14h30 – 15h30)
7. Information from the Action against Crime Department on anti-corruption technical assistance projects
Informations du Service de la lutte contre la criminalité sur les projets d'assistance technique anti-corruption
8. Round Table on the prevention of corruption in respect of judges and prosecutors – keynote speakers: Djuro SESSA (Croatia), Andrea TITZ (Germany), Mr Colin NICHOLLS (Transparency International)
Table ronde sur la prévention de la corruption des juges et procureurs – intervenants principaux : Djuro SESSA (Croatie), Andrea TITZ (Allemagne), Mr Colin NICHOLLS (Transparency International)
(Tuesday / mardi, 14h30 – 16h30)
9. Exchange of views with Yerlan TUYAKBAEV and Aizhan BERIKBOLOVA, Agency for Combating Economic Crimes and Corruption, Kazakhstan (financial police)
Echange de vues avec Yerlan TUYAKBAEV et Aizhan BERIKBOLOVA, Agence de lutte contre le crime économique et la corruption, Kazakhstan (police financière)
(Tuesday / mardi, 17h00 – 18h00)
10. Exchange of views with Mr Stanislas FROSSARD, Executive Secretary of the Enlarged Partial Agreement on Sport (EPAS) – current state of work
Echange de vues avec M. Stanislas FROSSARD, Secrétaire Exécutif de l'Accord partiel élargi sur le Sport (APES) – état actuel des travaux
(Wednesday / mercredi, 09h30 – 10h00)

11. Fourth Evaluation Round – feedback on the first visits (Poland, Slovenia, United Kingdom) from the evaluated countries, the evaluation teams and the secretariat
Quatrième Cycle d'Évaluation – retour d'informations sur les premières visites (Pologne, Slovénie, Royaume-Uni) de la part des pays évalués, des équipes d'évaluation et du secrétariat
12. **Election** of a member of the Bureau / *d'un membre du Bureau*
(Wednesday / mercredi)
13. Co-operation with the European Union – latest developments
Co-opération avec l'Union Européenne – derniers développements
14. Third Round Compliance Procedure regarding Armenia, Montenegro, Portugal and Romania – selection of rapporteur countries (Bureau 59 proposals)
Procédure de conformité du Troisième Cycle à l'égard de l'Arménie, le Monténégro, le Portugal et la Roumanie – sélection des pays rapporteurs (propositions du Bureau 59)
15. Fourth Evaluation Round – composition of the Team in charge of the evaluation of Slovakia (Bureau 59 proposals)
Quatrième Cycle d'Évaluation – composition de l'équipe chargée de l'évaluation de la Slovaquie (propositions du Bureau 59)
16. Miscellaneous / *Divers*
17. Adoption of decisions / *Adoption des décisions*
18. Dates of next meetings / *Dates des prochaines réunions*

APPENDIX III

Gender & Corruption: Is it an issue for GRECO? DRAFT REFLECTION PAPER

A. An issue for GRECO's work?

The relationship between women and corruption (often referred to as 'gender and corruption') is a topic of serious interest to, and research by, international organisations, academics, NGOs and others, particularly in the last decade. The two main themes are:

1. the relationship between levels of corruption and women's participation/representation
2. the impact of corruption on women

Theme 1. Research shows that in countries where there is more female representation there is less corruption. The early debates focused on whether there was a causal link. Further research has indicated that merely increasing female participation in countries where democratic structures and accountabilities are weak is not enough on its own to reduce corruption (see overleaf). A recent study³ shows, however, that corruption is higher in countries "where social institutions deprive women of their freedom to participate in social life, even accounting for democracy and representation of women in political and economic life ..."

Theme 2. There is no doubt that corruption impacts both men and women as citizens, participants, and victims. The question is whether, in certain contexts, national or local, the impact is significantly different on men or women. The question then is whether a more tailored response – that takes this gender perspective into account – would more effectively reduce or prevent corruption. This is one of the key questions GRECO delegates need to bear in mind as they consider this issue. If so, the question then is whether or how to include it in GRECOs' work, now, and in the future.

If you know of any organisations or research at a national level actively looking at gender and corruption, please send details to the Secretariat (anna.myers@coe.int).

B. Gender equality / Gender mainstreaming at the Council of Europe.

The concept of gender equality has evolved and while gender neutrality served an important purpose, the importance of difference is now clearly accepted. Recognising differences in how men and women are affected and conduct themselves within society is now seen as vital in effectively addressing gender inequalities. "Equal but different." The Council of Europe believes that 'gender mainstreaming' – the process whereby a gender perspective is included from the earliest planning stages to final decisions on policy or implementation in a specific field – needs to be integrated into all of its sectorial activities. Gender mainstreaming is seen as supporting the goal of gender equality but is, not in itself, a goal. The work that GRECO is now doing to research and reflect on the issue of gender and corruption is new and important in the field of anti-corruption in Europe and for gender equality.

³ Branisa, B. & M. Ziegler (2010). Reexamining the link between gender and corruption: The role of social institutions. Discussion Paper No. 24, Courant Research Centre. PEG. (see also reprint: <http://ideas.repec.org/p/zbw/gdec11/15.html>)

Gendered Perceptions of Corruption – Is There a Difference?

The idea that gender predisposes men to be more corrupt than women is an assertion that is still under debate and assessment.⁴ There is no clear evidence that women would not bribe given the opportunity. Some suggest that they may simply be unable to find the entry-points to networks where bribery takes place.⁵ However, empirical findings do indicate that women perceive and experience corruption differently than men.

Women appear to be less tolerant, as well as more vulnerable, to corruption than their male counterparts, as indicated by a study looking at the gendered dimension of perceptions of corruption among Australian women.⁶ A recent UNIFEM* report further confirms these findings as well as survey work conducted by Transparency International (TI).⁷

According to TI's Global Corruption Barometer, women around the world consistently perceive higher levels of corruption in public institutions than men. This is particularly the case for public services with which they have the most contact, such as school and health facilities.

These differences in perception translate into differences in actions. Depending on the country context, women may be less likely to report corruption and defend their rights. For example, analysis of corruption claims, filed at 38 citizen complaint centres around the world shows that men are on the average forty percent more likely than women to seek help.⁸

This is an excerpt from a paper published by Transparency International, 'Corruption and Gender in Service Delivery: The Unequal Impacts', Working Paper 02/2010.

⁴ In this paper, gender inequalities are the imbalances between, and valuations of, men and women in terms of social, economic, political and cultural roles and powers. It is a condition which is the opposite of equality, which is defined by the International Labour Organisation (ILO) as women and men having "equal conditions for realising their full human rights and for contributing to, and benefitting from, economic, social, cultural and political development". See: ILO, ABC of Women Worker's Rights and Gender Equality (Geneva, Switzerland: ILO, 2000). Also see, TI, 'Gender and Corruption,' Working Paper 03/2007 (Berlin, Germany: TI, 2007); Anne Marie Goetz, 'Political Cleaners: How Women are the new Anti-Corruption Force. Does the Evidence Wash.' (Brighton, UK: Institute of Development Studies, 2004).

⁵ Farzwana Nawaz, 'State of Research on Gender and Corruption,' U4 Expert Answers (Bergen, Norway: SMI and TI, 24 June 2009). <http://www.u4.no/publications/state-of-research-on-gender-and-corruption>

⁶ Diana Bowman and George Giligan, 'Australian women and corruption: The gender dimension in perceptions of corruption.' Journal of Administration and Governance, vol. 3 no. 1 (2008).

⁷ UNIFEM, 'Who Answers to Women? Gender & Accountability, Progress of the World's Women 200/2009' (New York, NY: UNIFEM, 2009). www.unifem.org/progress/2008/publication.html

⁸ See Transparency International 'ALAC: Data, funding and Security Survey: March – April 2010' (Draft).

* UNIFEM (formerly known as the United Nations Development Fund for Women), merged in January 2011 into UN Women, a composite entity of the UN, along with the International Research and Training Institute for the Advancement of Women (INSTRAW), Office of the Special Adviser on Gender Issues (OSAGI), and Division for the Advancement of Women (DAW).