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First Evaluation Round

Evaluation Report on Cyprus

Adopted by GRECO
at its 7th Plenary Meeting
(Strasbourg, 17-20 December 2001)

I. INTRODUCTION

1. Cyprus was the ninth GRECO member to be examined in the First Evaluation Round. The GRECO evaluation team (hereafter "the GET") was composed of Mr Roger Gaspar, Deputy Director General of Intelligence of the National Criminal Intelligence Service (United Kingdom, law-enforcement expert), Mr Panagiotis Nikoloudis, deputy prosecutor at the Court of Appeal of Athens (Greece, criminal-justice expert), and Mr Klaudijo Stroligo, Director of the Officer for Money-Laundering Prevention of the Ministry of Finance (Slovenia, general-policy expert). This GET, accompanied by two members of the Council of Europe Secretariat, visited Cyprus from 19 to 21 December 2000. Prior to the visit, the GET experts were provided with a comprehensive reply to the Evaluation Questionnaire (document GRECO Eval I (2000) 20) as well as with copies of the relevant legislation.
2. The GET met with the President of the Supreme Court, the Attorney-General, the Deputy Attorney-General and members of the Law Office, officers from the Cyprus Police, the Auditor-General, the Deputy Auditor-General and members of the Audit Office, the Accountant General, the Ombudsman (Commissioner for the Administration), the Chairman of the Public Service Commission, officials from the Ministry of Justice and Public Order and members of the House of Representatives.
3. Moreover, the GET met with members of the Institute of Certified Public Accountants and journalists.
4. It is recalled that GRECO agreed, at its 2nd Plenary meeting (December 1999) that the First Evaluation Round would run from 1 January 2000 to 31 December 2001, and that, in accordance with Article 10.3 of its Statute, the evaluation procedure would be based on the following provisions:
 - Guiding Principle 3 (hereafter "GPC 3": authorities in charge of preventing, investigating, prosecuting and adjudicating corruption offences: legal status, powers, means for gathering evidence, independence and autonomy);
 - Guiding Principle 7 (hereafter "GPC 7": specialised persons or bodies dealing with corruption, means at their disposal);
 - Guiding Principle 6 (hereafter, "GPC 6": immunities from investigation, prosecution or adjudication of corruption).
5. Following the meetings indicated in paragraph 2 above, the GET experts submitted to the Secretariat their individual observations concerning each sector concerned and proposals for recommendations, on the basis of which the present report has been prepared. The principal objective of this report is to evaluate the measures adopted by the authorities of Cyprus, and wherever possible their effectiveness, in order to comply with the requirements deriving from GPCs 3, 6 and 7. The report will first describe the situation of corruption in Cyprus, the general anti-corruption policy, the institutions and authorities in charge of combating it - their functioning, structures, powers, expertise, means and specialisation - and the system of immunities preventing the prosecution of certain persons for acts of corruption. The second part contains a critical analysis of the situation described previously, assessing, in particular, whether the system in place in Cyprus is fully compatible with the undertakings resulting from GPCs 3, 6 and 7. Finally, the report includes a list of recommendations made by GRECO to Cyprus in order for this country to improve its level of compliance with the GPCs under consideration.

II. GENERAL DESCRIPTION OF THE SITUATION

a. The phenomenon of corruption and its perception in Cyprus

6. The Republic of Cyprus is an island-State in Eastern Mediterranean at the crossroads of Europe, Asia and Africa. It has 700,000 inhabitants and a per capita GDP that corresponds to 77% of the European Union average¹. The Republic of Cyprus became independent from British colonial rule in 1960. Since 1974 part of the territory of the Republic is not under the control of its Government. The assessment of the GET inevitably concerns the situation in only the part that is under such control ("the Government-controlled part of the island").
7. According to the authorities and the representatives of the "civil society" interviewed by the GET, corruption does not occur on such a scale in Cyprus as to constitute a serious problem. This appeared to be a genuinely held view, which was also supported to a large degree by official statistics. In the six years preceding GET's visit there had been 22 cases of corruption (involving 33 persons) investigated by the police and four such cases prosecuted².
8. The authorities contend that the figures concerning corruption reflect a generally low level of criminality in Cyprus. According to the above-mentioned statistics, in the eleven months prior to the visit of the GET, there had been seven reported cases of murder of which five had been solved, 40 reported cases of robbery and extortion of which 32 had been solved (80%) and 269 narcotics cases of which 94.4% had been solved. The figures for 2000 do not diverge significantly from the pattern of the past six years during which the number of cases of serious crime remained relatively constant with the percentage of solved cases always exceeding 70%. The authorities claim that there are no links between corruption and organised crime in Cyprus.
9. Although the authorities of Cyprus do not perceive corruption as a serious problem domestically, they appear to be aware of the dangers involved. This is why they have taken a number of initiatives in this connection recently.
10. Cyprus was among the first countries to sign the Criminal³ and Civil Law Conventions on Corruption. At the time of the visit of the GET, Cyprus was in the process of submitting the instrument of ratification of the first and preparing legislation for the ratification of the second. Moreover, it had recently hosted the 4th European Conference of Specialised Services and the OCSE Parliamentary Seminar on Organised Crime and Corruption. Cyprus has also applied to become a member of the OECD Working Group on Bribery in International Business Transactions. Cyprus is a party to various international instruments (multilateral and bilateral) aimed at facilitating and organising mutual legal assistance in criminal matters, including the European Convention on Mutual Legal Assistance in Criminal Matters.
11. In addition to being active in the international field, the authorities of Cyprus took the decision to tighten up their domestic legislation.
12. Corruption in both the public and the private sector has been a criminal offence in Cyprus since before independence. The Prevention of Corruption Act (Cap. 161)⁴ provides for a punishment of up to two years' imprisonment and/or a fine independently of the context in which corruption is

¹ According to the 1998 figures.

² Three cases remained under investigation at the time of the visit, one from 1999 and two from 2000.

³ On 17 January 2001, after the GET visit, Cyprus ratified the Criminal Law Convention.

⁴ See Appendix.

committed; however, this is increased to imprisonment of up to seven years and/or a fine whenever the offence is related to “a contract or a proposal for a contract with the State or any Government Department or any public body or a sub-contract to execute any work comprised in such a contract”. According to section 5 of the Act, public officials who receive money, gifts or any other consideration from a person holding or seeking to obtain such a contract are presumed to have acted corruptly unless they prove otherwise.

13. In addition to the Prevention of Corruption Act, corruption-related offences are included in the Criminal Code (Cap. 154)⁵, which also dates back to the colonial times. These are active and passive official corruption, extortion by public officers, the receipt of property by public officers to show favour, the pursuit by public officers of private interests in certain circumstances, false claims by officials and abuse of office. Moreover, a law enacted in the early years of the Republic – Law 65/1965 on the Illicit Enrichment of Certain Public Officials – created the offence of illegal acquisition of property by senior officials such as Ministers, Members of Parliament, mayors and others⁶. The same law provides for the confiscation of assets that have been acquired in breach of its provisions. A special law (Law 82/1967 on Customs and Excise) contains provisions on the active and passive corruption of the members of the Customs and Excise Department.
14. As regards general criminal law, incitement and conspiracy to commit an offence are punishable, legal persons can be held criminally liable (although there have been no criminal proceedings against legal persons in corruption cases) and the Cypriot courts have jurisdiction over offences carrying a penalty of more than two years’ imprisonment that are committed by Cypriot nationals abroad (subject to the dual criminality principle).
15. This rather comprehensive legislation was further developed recently. Thus in 1998 corruption was made a predicate offence for the purposes of the money-laundering legislation. In 1999 the penalty for active and passive corruption under the Criminal Code was increased to five years and a fine. Finally, in July 2000 the authorities incorporated the Council of Europe Criminal Law Convention into domestic law providing a seven-year penalty and/or a fine up to 10,000 Cypriot pounds for all the offences contained therein⁷.
16. The last initiative taken by the authorities of Cyprus in the field of the fight against corruption was a series of awareness-raising activities organised together with the press and the House of Representatives.
17. As for the rest, the Cypriot authorities informed the GET that they were confident that their general law-enforcement and criminal-justice systems, which function well and contain various checks and balances, and the effective control exercised over public expenditure by one of the independent officers of the Republic provided an adequate response to the threat of corruption to which every European country is exposed. In the authorities’ view, the recent creation of a parliamentary committee exercising control over the public sector was expected to make an additional contribution to the general effort to prevent corruption from developing in Cyprus.

⁵ See Appendix.

⁶ The GET was informed that nobody has ever been prosecuted under this law.

⁷ According to an express provision in the law incorporating the Criminal Law Convention, all these are predicate offences for the purposes of the money-laundering legislation. The law figures in the Appendix.

b. Bodies and institutions in charge of the fight against corruption

b1. The Police

18. Cyprus has a national police force, called Cyprus Police, with seven territorial divisions⁸. Cyprus Police comes under the responsibility of the Minister of Justice and Public Order. The latter is, *inter alia*, responsible for its budget, which s/he submits for approval to the House of Representatives. According to the information received by the GET, there have not been any complaints on the part of the police concerning the budgetary appropriations put at their disposal.
19. Cyprus Police is headed by the Chief of Police and the Deputy Chief, who are both appointed by the President of the Republic. They are assisted by four Assistant Chiefs, appointed by the Minister of Justice and Public Order on the proposal of the Chief of Police. The same procedure is followed for appointment to all higher-grades. Cyprus Police conducts its own recruitment in accordance with objective criteria set out in the relevant law (Cap. 285). On the whole, there are 5,000 police officers, including 600 members of the Fire Brigade.
20. According to section 4 (1) of the Law on Criminal Procedure (Cap. 155), "any police officer may investigate into the commission of any offence". Police officers who investigate criminal offences are under the control, supervision and instructions of the Attorney-General.
21. Most criminal investigations are conducted by officers of the various Crime Investigation Departments ("CIDs"). There is the central CID based at the Police Headquarters coming under the Assistant Chief responsible for Operations as well as a CID in each territorial division. The central CID comprises, *inter alia*, a Financial Crimes Unit⁹, whose staff include police officers with an economics background and a chartered accountant, and an Intelligence Office, the principle source of information of which is a network of informants.
22. The police would open an investigation in a corruption case following a complaint or relevant information. In practice, the most serious cases of corruption are investigated by officers of the central CID who can co-opt skilled territorial officers, specialists from the Financial Crimes Unit and even outside experts. Lesser cases go to the CIDs of the territorial divisions. The cases are assigned by the Commander of the central CID after consultation with the Chief of Police, the Assistant Chief of Operations and the Attorney-General.
23. The Attorney-General has an important role to play in all police investigations in corruption cases. Not only is s/he the usual recipient of corruption-related complaints made by public authorities¹⁰ but, according to standard practice, the police submit to his/her office all corruption files. As a result, the Attorney-General has ample opportunity to issue instructions to the police to start or complete a criminal investigation in such cases.

⁸ One of them, that of Kyrenia, is not operational at present, the territory under its responsibility being in its entirety outside the Government-controlled part of the island.

⁹ It is this unit that deals with most requests for international assistance. Although the Cypriot authorities are not always informed of the object of the request, the GET was told that some of those processed recently concerned corruption cases. The GET was also informed that, in most cases, the Cypriot authorities are able to provide international assistance promptly.

¹⁰ The position of the Law Office of the Republic, which is headed by the Attorney-General, is that every public official is under an obligation to report criminal offences that come to his/her attention. According to the members of the Law Office interviewed by the GET, this obligation derives from Article 369 of the Criminal Code, which provides that "every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour". This obligation extends to members of the tax authorities, although a particular procedure involving a request for special authorisation applies.

24. Domestic law does not endow the Cyprus Police with any special powers for the investigation of corruption offences. Police officers may, of course, obtain from the courts warrants for searches and seizures as in every other criminal investigation. In addition, section 6 of the Law on Criminal Procedure gives them the power to issue orders for the production of documents necessary or desirable for the purposes of the investigation of an offence. The GET was also informed that the police can engage in covert activities¹¹ in corruption cases using their special powers under the anti-drugs legislation, including controlled delivery.
25. However, the GET was equally informed that national law allows the police very limited possibilities to use telephone-tapping in corruption-related criminal investigations. According to law 92(I)/1996, such a measure may be ordered by a court, on the application of the Attorney-General, only in cases of persons who are under arrest or detention. It is considered that the wider use of telephone-tapping would fall foul of Article 17 of the Constitution, which protects the secrecy of correspondence and any other communication made through means not prohibited by law¹². By the same token, the use of listening devices is deemed to be illegal in Cyprus. Moreover, the police do not use communications-traffic data ("metering") as a source of intelligence and videotaped statements obtained at the investigation stage cannot be admitted as evidence in a criminal trial.
26. Generally speaking, the confidentiality of criminal investigations is respected and any person who does any act calculated or likely to obstruct or in any way influence such an investigation is criminally liable.
27. As regards witness protection, no special agency exists in Cyprus. However, the police have put into place various administrative arrangements, according to which they can provide witnesses with a change of their usual place of residence, security guard on a 24-hour basis, subsistence allowances and other financial benefits, police escort and/or surveillance of their residence and moral support. Given the difficulties that such schemes can run into in a country the size of Cyprus, the police have even made arrangements for moving witnesses abroad. Ten persons have had the benefit of the witness-protection scheme in the last ten years. At the time of the visit of the GET, legislation on witness protection was being drafted¹³.
28. Finally, in Cyprus there is not any special unit for the investigation of complaints against the police. In general, the number of such complaints remains low. As regards corruption in particular, there were five to six cases in the last six years. Some of these complaints led to criminal investigations by the central CID. Others, however, led to disciplinary proceedings.
29. As regards the latter, the GET was informed that Cyprus Police has its own disciplinary code, which has been established by regulation. The code covers a broad range of behaviour from uncleanness, discreditable conduct and insubordination to disobedience to orders and neglect of duty. The disciplinary offence of corrupt practice is also included. The relevant provision prohibits a police officer from receiving a bribe, failing to account for moneys received in his/her official capacity, placing him/herself under an obligation to anyone holding a licence, using his/her official position to personal advantage, without authority providing a testimonial or recommendation and

¹¹ However, no criminal acts may be licensed, even if they are of a minor character. Nor can *agents provocateurs* be used. The difference between an undercover agent and an *agent provocateur* is defined in the case-law.

¹² Article 17 § 2 of the Constitution is slightly broader than Law 92(I)/1996 in that it allows for interference in cases not only of "convicted or unconvicted prisoners" but also of "business correspondence and communication of bankrupts during the bankruptcy proceedings".

¹³ This legislation was adopted on 6 July 2001 after the GET visit (Law 95(I)/2001).

without authority supporting the grant of a licence. Hearings for a breach of the disciplinary code are quasi-judicial and are conducted internally, often by officers of the relevant division, under the authority of the Chief of Police. The standard of proof required is that of criminal law. The penalties involved range from a reprimand and a fine to dismissal. The Chief of Police and the Attorney-General receive reports on all disciplinary investigations, including those on corruption.

Other investigating authorities

30. Although most criminal investigations are conducted by the police, the Law on Criminal Procedure gives the Attorney-General the power to appoint an independent criminal investigator. This can be any public official or even a member of the professions, e.g. a lawyer or an accountant. The independent criminal investigator, upon his/her appointment, possesses all the powers of the police. The Attorney-General has used this power in cases involving complaints against the police as well in economic-crime cases.
31. Moreover, the Council of Ministers has the power, under the Commissions of Inquiry Law (Cap. 44), to appoint one or more persons of expert knowledge and established repute to investigate into a matter of public interest and report thereon. The proceedings before a Commission of Inquiry are quasi-judicial in nature. Depending on the results or outcome of such an inquiry, a criminal investigation or criminal proceedings may be initiated.
32. Finally, of some relevance is the power of the following authorities to conduct criminal investigations within their special area of competence: the Department of Customs and Excise, the Income Tax and VAT Department and the Unit for Combating Money-Laundering, which comes under the responsibility of the Attorney-General directly.

b2. The Attorney-General and the Law Office

33. The Constitution of Cyprus provides for a number of independent officers of the Republic, the first one of whom is the Attorney-General. The Attorney-General, assisted by the Deputy Attorney-General, is the legal adviser of the Republic which s/he represents in all court proceedings. Both the Attorney-General and the Deputy Attorney-General are appointed by the President of the Republic. They must possess the qualifications of and hold office under the same terms as Supreme Court judges. They serve until the age of 68 and can only be removed from office in cases of mental or physical incapacity or conduct incompatible with the exercise of their duties. They head the Law Office of the Republic, which is an independent authority not under any ministry, with its own budget approved by the House of Representatives¹⁴.
34. According to Article 113 § 2 of the Constitution, the Attorney-General has the power, exercisable at his/her discretion "in the public interest", to institute and conduct criminal proceedings. S/he is free to discontinue such proceedings under the same conditions by entering a *nolle prosequi*. Although private prosecutions are allowed in Cyprus, no proceedings can be instituted under the Law on the Prevention of Corruption (Cap. 161) and Law 65/1965 without the authorisation of the Attorney-General. Moreover, the Attorney-General has the power, exercised at his/her discretion in the public interest, to take over and continue or discontinue private prosecutions.
35. No attempt has been made to define the notion of "public interest" in a concrete manner in the domestic legal order. The power of the Attorney-General to discontinue criminal prosecution has

¹⁴ "Judicial" expenses for foreign experts or witnesses transferred abroad for protection are borne out of the Law Office's budget.

been challenged before the Supreme Court and the Court decided that such a decision of the Attorney-General is not subject to judicial review. However, the reasons for the discontinuance of the proceedings are always included in the file, the police are invariably invited to comment on applications for the discontinuation of proceedings and discontinued proceedings can always be restarted.

36. Since the police file is not accessible to the public, the current Attorney-General has chosen to explain to the public and the House of Representatives the reasons for such discontinuances systematically. In the same vein, he sometimes issues statements explaining why he has decided not to prosecute sensitive cases where, in his view, the evidence was not sufficient.
37. The GET was informed that the power of the Attorney-General to discontinue a criminal prosecution is usually exercised in cases where the proceedings were wrongly instituted, for reasons of health, in cases of offences committed by minors and in cases of family quarrels. It can be also used to ensure the evidence of accomplices. Moreover, the police during the investigation, on the advice of the Attorney-General, may decide not to institute proceedings against a party to the offence in order to use his/her testimony as evidence against another party to the offence. Although the domestic legal system does not allow for plea-bargaining as such, the Attorney-General may withdraw a count in consideration of the accused pleading guilty to another charge. Moreover, the President of the Republic, on the recommendation of the Attorney-General, may remit, suspend or commute a sentence passed by a court on a person who has collaborated with the police.
38. The Attorney-General exercises his/her powers under Article 113 § 2 of the Constitution with the assistance of the staff of the Law Office of the Republic. The police and certain other government departments (such as the Department of Customs and Excise and the Income Tax and VAT Department) can also prosecute certain categories of offences. However, they are liable to receive instructions and direction from the Attorney-General in the exercise of their prosecutorial functions. Moreover, the GET was informed that, under a new scheme, 50 posts of prosecutors would be created in the Law Office. These would replace the prosecutors of the police. At the time of the visit of the GET eight such prosecutors were about to be appointed.
39. The GET was informed that the recruitment of prosecutors was expected to a certain extent to ease the strain under which the members of the Law Office had to work. At the time of the visit the Attorney-General and the Deputy Attorney-General were assisted by 89 legal officers, who had to deal with 600 bills to be vetted, 500 requests for opinions and 1,000 recourses for annulment of administrative acts per year. Despite the workload the staff of the Law Office were instructed to give priority to criminal cases. Twelve legal officers were assigned to assize-court cases (four devoted all their time to such cases, while the rest also discharged other duties). An interesting feature of the organisation of the Law Office was the designation of nine officers as responsible, *inter alia*, for the examination of applications addressed to the Attorney-General to exercise his/her power to discontinue a criminal prosecution. The GET was assured that the applications in question are assigned randomly. As a result, a person lodging such an application would not know in advance, or at any stage of its examination, which member of the Law Office is responsible for it.

b3. The courts

40. Criminal offences are tried in Cyprus at first instance by either a District Court or an Assize Court. There are five district and three assize courts. Criminal appeals are heard by the Supreme Court, which is the highest court of the Republic.
41. The first instance judges are appointed, transferred, promoted and disciplined by the Supreme Council of Judicature, which is composed of the members of the Supreme Court. They have full security of tenure and serve until the age of 60. The Supreme Court judges are appointed by the President of the Republic. By convention, the President of the Republic seeks the advice of the Supreme Court before making such an appointment. Almost all appointees are serving judges. There has been only one exception and in this case the Supreme Court issued a statement expressing concern about the risk of erosion of judicial independence. Supreme Court judges serve until the age of 68 and can only be removed from office in cases of mental or physical incapacity or conduct incompatible with the exercise of their duties. They are also under the disciplinary control of the Supreme Council of Judicature.
42. The salaries of the judges of the Supreme Court are a direct charge on the "consolidated fund". As a result, their remuneration is not dependent on parliamentary approval. The salaries of the lower-court judges and the other expenditure for the judiciary are paid out of the state budget, which is voted on by the House of Representatives.
43. The GET was informed that the courts face some staffing problems. However, the resulting delays mostly affected civil cases. It was the impression of the President of the Supreme Court that corruption offences were punished with appropriate severity.

b4. Other bodies and institutions

44. Besides the police, the Law Office and the judiciary, there are other State authorities in Cyprus, which, although competent in areas different than criminal law, have an important role to play in the prevention and disclosure of corruption. Similar institutions exist, obviously, in every state but the role they play in the fight against corruption differs from one country to another. In Cyprus the following bodies and institutions should be mentioned: the Audit Office, the Treasury, the Tender Boards, the Public Service Commission and the Ombudsman.

i. The Auditor-General and the Audit Office

45. Similarly with the Attorney-General and the Deputy Attorney-General, the Auditor-General and the Deputy Auditor-General are independent officers of the Republic for whom provision is made by the Constitution. They are appointed by the President of the Republic and enjoy the same security of tenure as Supreme-Court judges.
46. According to Article 115 of the Constitution, the Auditor-General, assisted by the Deputy Auditor-General "shall, on behalf of the Republic, control all disbursements and receipts and audit and inspect all accounts of moneys and other assets administered and of liabilities incurred, by or under the authority of the Republic." S/he has the right to access all books, records and returns relating to such accounts and to places where such assets are kept. Furthermore, s/he is also empowered by special legislation to audit the financial statements of public corporations, special funds and local authorities. However, the Auditor-General cannot audit the financial statements of

private bodies and political parties even if they are possible "end-users" of moneys deriving from the state budget or if they have received Government-guaranteed loans.

47. The Auditor-General and the Deputy Auditor-General head the Audit Office, an independent authority not under any Ministry. The Audit Office conducts financial, technical and value-for-money/performance audits. It also provides advice to public-sector executives on accounting procedures and systems and may conduct special investigations. The Audit Office has 115 members of staff (102 auditors and 13 administrative staff). In the current circumstances, this is an adequate number, the Auditor-General informed the GET. A significant proportion of the Office's members of staff are professional accountants but there are also civil and mechanical engineers, who perform audits of governmental and semi-governmental capital projects. The budget of the Office is subject to the approval of the House of Representatives. However, prior approval of the budget by the Minister of Finance and the Council of Ministers is required. The Auditor-General considers this to be a possible limitation on the independence of her Office.
48. Pursuant to Article 116 of the Constitution, the Auditor-General submits annually a report on the exercise of his/her functions and duties to the President of the Republic who lays it before the House of Representatives. The GET was told that, as a matter of practice, the annual report is also sent to the Ministers and the Attorney-General. The Auditor-General also issues individual audit reports to the auditees. The Auditor-General considers that she is under a legal obligation to report criminal offences that come to her attention. In practice, whenever there is suspicion of a criminal offence she sends the Attorney-General a report immediately.

ii. The Accountant-General and the Treasury

49. According to the Constitution, the Accountant-General, assisted by the Deputy Accountant-General, is responsible for managing and supervising all accounting operations in respect of all moneys and other assets administered, and of liabilities incurred, by or under the authority of the Republic and for receiving and making all the disbursements of moneys of the Republic¹⁵. The Accountant-General and the Deputy Accountant-General are appointed by the President of the Republic. However, it is the Public Service Commission that is responsible for their retirement and disciplinary control.
50. The Accountant-General and the Deputy Accountant-General head the Treasury, which is staffed by 230 accounting officials and 600 clerical staff. Its budget is part of the general budget of the Ministry of Finance and is subject to approval by the House of Representatives. There are Treasury representatives in every Ministry. These perform an ex ante control. In theory they are only accountable to the Accountant-General. The GET was informed that the Treasury needed more staff, although some of the vacant positions were in the process of being filled at the time of the visit.

iii. The Tender Boards

51. According to the Public Tenders Law of 1997, public contracts are awarded by either the Main Tender Board or one of the Service or Departmental Tender Boards. The latter can be established in any ministry, independent office, service or department of the Republic and may award public contracts of up to 30,000 - in the case of a ministry or the Department of State Purchases and Supplies - or 10,000 - in the case of another department or an independent office or a service -

¹⁵ At the time of the visit a bill on the consolidation of accounting procedures was under preparation.

Cyprus Pounds. The Main Tender Board awards all other public contracts¹⁶. It is composed of the Accountant-General, who is its President, the Director-General of the Ministry of Finance, the Director-General of the Ministry of Commerce, Industry and Tourism, the Director-General of the Planning Bureau, the Director of the Department of State Purchases and Supplies and the officer in charge of the authority concerned by the tender. The Attorney-General and the Auditor-General have the right to participate as independent observers. The Main Tender Board may refer any matter relating to a tender procedure pending before it to the Council of Ministers for decision. However, the decision to refer must contain serious reasons.

52. All the decisions of the tender boards may be challenged before the Supreme Court acting as an administrative court, which can review the terms on which the tenders are invited as well as the evaluation procedures and recommendations leading to the award. The GET was informed that the courts have until now annulled tender procedures only in relation to procedural mistakes. No suspicion of corruption was involved in the relevant cases. According to the statistics provided, in 1998 there were 1700 tenders of which only 21 were challenged in court. In 1999 there were 1800 tenders of which 37 were challenged and in 2000 1924 tenders of which 24 were challenged.

iv. Public Service Commission

53. In order to guarantee respect for certain standards in the Public Service¹⁷, the Constitution makes provision for a Public Service Commission, the members of which are appointed for a period of six years by the President of the Republic and cannot be removed from office except on the same grounds as a Supreme-Court judge. The salaries of the President and the members of the Public Service Commission are a direct charge on the "consolidated fund" (not subject to approval by the House of Representatives).
54. The Commission is responsible for the filling on the basis of objective criteria of the vast majority of vacancies (first appointment and promotions) in the Public Service of the Republic. Notable exceptions are the judges, the military and security personnel as well as the Attorney-General, the Auditor-General, the Accountant-General and their Deputies. The Commission is also the disciplinary authority for serious breaches of the Code of Ethics for public officials, which is incorporated in the Public Service Law. Whenever a public official appointed by the Public Service Commission (and the Accountant-General as well as the Deputy Accountant-General) commits a disciplinary offence, the Commission can impose on him/her a variety of sanctions ranging from a fine to compulsory retirement or dismissal¹⁸.
55. All decisions of the Public Service Commission are open to challenge before the Supreme Court.

v. The Commissioner for Administration (Ombudsman)

56. The Commissioner for Administration (Ombudsman) is an independent authority established by law in 1991. S/he is appointed for a term of six years by the President of the Republic, on the recommendation of the Council of Ministers and with the prior consent of the House of Representatives. During his/her term of office, the Commissioner may not be dismissed, except for the same reasons and under the same conditions as a Supreme-Court judge.

¹⁶ There is also the Special Main Tender Board dealing with some Ministry-of-Defence tenders.

¹⁷ The Public Service of the Republic includes some 14.000 posts, of which at the end of 1999 86% were occupied and 14% vacant.

¹⁸ The Attorney-General is automatically informed of all disciplinary procedures instituted by the Public Service Commission.

57. The Commissioner conducts investigations into (i) complaints against authorities or public officers¹⁹ for breaches of human rights or the law or the rules of proper administration lodged by persons who are directly and personally affected, (ii) any matter concerning the functioning of any authority, upon order by the Council of Ministers and (iii) any matter of general interest, *proprio motu*²⁰.
58. The Commissioner, in the course of his/her investigation, has the power to call any public officer or other person to give evidence or to furnish information or to produce documents. The Commissioner's investigations are not open to the public. Where after the completion of an investigation the Commissioner concludes that harm or injustice has been done to the complainant, s/he draws up a report with suggestions or recommendations to the competent authority for redress²¹. The Commissioner submits every year to the President of the Republic, the Council of Ministers and the House of the Representatives (which has a special committee responsible for the Commissioner) a report about the exercise of his/her functions with comments and suggestions. This report must be published.
59. The Commissioner informed the GET that she had not dealt with any corruption cases. However, she assured the GET that if, in the course of investigating a complaint, she came across indications that a criminal offence of corruption had been committed, she would transmit the case to the Attorney-General. The Commissioner had intervened in a number of cases to safeguard public access to information held by the authorities. In the past there had also been complaints about tendering procedures, but these have subsided since the introduction of new relevant legislation few years ago. In general, human rights appeared to be higher on the Commissioner's agenda than maladministration.

vi. Statutory bodies for accountants

60. Under company law, all companies listed on the Cyprus Stock Exchange must appoint an auditor to audit their annual accounts. Tax legislation also requires companies registered with the Ministry of Commerce to send reports to the tax authorities and to keep, for these purposes, proper accounts.
61. In Cyprus there are 1200 chartered accountants, members of the Institute of Certified Public Accountants, who can audit private-law companies. To become a member of the Institute one must be either a member of one of the major accountants' bodies in the United Kingdom or have an equivalent qualification. The Institute demands from its members full compliance with the International Accountant Standards. It also supervises the implementation of a professional code of conduct. Members of the Institute who are in breach of this code are liable to face disciplinary proceedings before its disciplinary council and to be punished.

¹⁹ The only authorities excluded are (i) the President of the Republic, the House of the Representatives, the Council of Ministers and the courts, (ii) the Attorney-General, the Auditor-General, the Governor of the Central Bank and the Public Service Commission in relation to actions concerning the exercise of their functions under the Constitution and (iii) ministers in relation to actions concerning matters of general governmental policy and activities as members of the Council of Ministers.

²⁰ The provisions of the law on the Commissioner are subsidiary in nature since they cannot affect any law or administrative act providing for the right to institute proceedings before the courts or for a hierarchical recourse before any administrative authority or for the conduct of an investigation by a Commission of Inquiry or any other proceedings.

²¹ The law stipulates that, if the Commissioner concludes that there has been a breach of human rights that may constitute a criminal offence, s/he will send a copy of the report to the Council of Ministers, the House of Representatives and the Attorney-General.

62. Accountants are among the professions that have to comply with the provisions of the Prevention and Suppression of Money-Laundering Activities Law. In order to ensure compliance with the anti-money laundering legislation and the related guidelines, the Institute of Certified Public Accountants co-operates closely with the Unit for Combating Money-Laundering and the Central Bank of Cyprus. Accountants are obliged to report to the Unit for Combating Money-Laundering or to the police suspicions of money-laundering, but not of other criminal offences such as corruption.

vii. Ministry of Justice and Public Order

63. The Ministry of Justice and Public Order is the central authority under many international instruments for legal assistance ratified by Cyprus. According to the authorities, there are not any factors that prevent or hinder the granting of such assistance in corruption-related cases.

c. Immunities from investigation, prosecution and adjudication for corruption offences

64. Only the President and Vice-President of the Republic and the members of the House of Representatives benefit, during their term of office, from immunities in criminal proceedings in the Cypriot legal system. However, they can all be prosecuted for any offence, including corruption, following special leave obtained by the President of the Supreme Court in the case of the President and Vice-President of the Republic and the Supreme Court itself in the case of the members of the House of Representatives. Such leave is not required in the case of a Member of Parliament who commits an offence punishable with life imprisonment or is taken in the act of committing an offence punishable with imprisonment of five years or more.

65. Cypriot diplomats serving abroad enjoy the immunities of the Vienna Convention on Diplomatic Relations and Immunities. However, they can be tried before the Cypriot courts for any offence they may commit abroad.

III. ANALYSIS

a. An anti-corruption policy

66. According to all the indications at the disposal of the GET, Cyprus appears to belong to the group of the more fortunate European countries that are not particularly affected by corruption. However, as in other GRECO members, there is nothing to guarantee that corruption will remain a relatively rare phenomenon in Cyprus indefinitely. On the contrary, there exist a number of factors that appear to render the Member State under evaluation to a certain degree vulnerable.

67. The GET has little doubt that Cyprus is a country with a sound administrative and legal system and public officials of high professional and personal qualities. However, Cyprus is also a relatively small country of 700,000 people and it cannot be excluded that the personal relations of trust that inevitably develop in societies of this size might lead to the creation of conditions favouring corruption. In the case of Cyprus the risk of corruption taking larger proportions appears to be accentuated by certain traits of the country's political culture. For example, the GET's attention was drawn to the customer-provider type of relationship that exists between political parties and their voters, the pressures to which the holders of political office are increasingly subjected by powerful social and financial groups and the over-deferential attitude displayed by some categories of civil servants vis-à-vis political figures and members of their families. Finally, in GET's view, the domestic authorities cannot afford to overlook the risk of "imported corruption" that could prove more acute in Cyprus than in other countries because of certain aspects of its economy. For a long

period of time the Government-controlled part of the island was a rare oasis of stability in a rather unsettled region. As a result, it was able to attract significant international investment and has developed an important offshore sector²². It is, however, sectors like this that are often used for the laundering of the proceeds of corruption. In addition, the existence of this sector could render Cyprus an easy target for organised crime, which is one of the prime users of corruption as a means of “doing business”.

68. Of course, Cyprus has one principal advantage, which is the high level of awareness that its authorities demonstrate of the risks that might lie in store. The GET cannot but commend the authorities of Cyprus in this connection. Moreover, the GET cannot ignore the important initiatives that the authorities of Cyprus have taken recently to reduce vulnerability. For example, following the latest parliamentary enactments, Cyprus has a detailed and comprehensive criminal legislation on corruption.
69. Nevertheless, the GET considers that more needs to be done if Cyprus is to render itself immune to the risks identified above. In the very area of legislation, if one looks beyond criminal law, one can easily identify several loopholes that could seriously inhibit the anti-corruption struggle. Thus, the GET observes that there do not exist any statutory provisions on the financing of political parties, apart from those on how the limited amount of public aid included in each year’s State budget is apportioned. As a result, no real control can be exercised over the funding of the political life of Cyprus. Nor are members of the House of Representatives subject to a Code of Conduct. Moreover, although Law No. 65/1965 punishes the illegal acquisition of property by certain high officials, there does not exist a system under which they would be obliged to declare their assets and income²³. It is, therefore, not surprising that no person has ever been prosecuted under this piece of legislation. In the light of the above, the GET recommends that a system should be established for the declaration of assets and interests of high State officials, including Members of Parliament, the President of the Republic, the Attorney-General and Ministers. It also observes that a law on the financing of political parties is necessary.
70. In addition to the lacunae in the legislative framework, the GET has identified some pitfalls in the manner in which some laws are applied. For example, the GET was informed that section 66 of Law 1/1990, which creates an obligation for civil servants to declare changes in their income and assets, is not applied in practice. Other weaknesses identified by the GET concern the operation of some of the organs that are reviewed below. On the whole, the GET considers that, although the authorities of Cyprus can pride themselves of a number of achievements in the field of the fight against corruption, there is room for further improvement in the direction of formulating a comprehensive anti-corruption strategy.
71. The GET recognises that the development of such a strategy constitutes a major undertaking for most States. However, Cyprus is again in a rather advantageous situation. At the time of the visit of the GET its authorities were already discussing the possibility of creating a multidisciplinary body to advise on anti-corruption policy. According to the indications received, this body would be composed of representatives of, *inter alia*, the Attorney-General, the police, the Auditor-General,

²² In 1998 in Cyprus there were 7 locally incorporated banks, 2 branches of foreign incorporated banks, 29 offshore banking units, 2 administered banking units and 6 representative offices from a variety of countries, 85 financial services companies, 150 offshore investment companies and more than 30.000 other offshore companies.

²³ The GET was informed that, although the House of Representatives had adopted a relevant proposal, this never became a law. Because the text adopted by the House of Representatives was considered to raise problems in connection with the right to privacy, the President of the Republic, before promulgating it, decided to refer it to Supreme Court, which found it unconstitutional.

the Ministry of Justice and Public Order, the House of Representatives and the professional bodies. The GET cannot but greet warmly the idea of the creation of such an organ, especially since it appears that the authorities of Cyprus have had a positive experience with a similar body advising on anti-money-laundering policy, the Advisory Authority to Combat Money-Laundering Offences.

72. The GET, therefore, recommends the creation of such a specialised body to advise on anti-corruption policy. It should have a widely-representative composition. It also recommends that this body should be given a clear mandate to make a contribution to policy co-ordination. In this context, the advisory authority could elaborate proposals for legislative change whenever required, make concrete suggestions for the elimination of the conditions that enable or facilitate corruption and identify areas that, because of their vulnerability to corruption, should be given priority attention. The authority should be also entrusted with publicly promoting the fight against corruption.
73. The GET considers that such a body could open the way for the redressing of any weaknesses that already exist - or to the same effect any weaknesses that might be identified in the future - in the domestic anti-corruption mechanism. The main advantage of such an approach is that it would be domestic-driven. However, an international perspective is also always useful. This is why, independently of the creation of such organ, the GET has the following comments to make in connection with the bodies and institutions that are currently active in the fight against corruption in Cyprus.

b. Bodies and institutions currently in charge of the fight against corruption

74. The GET notes with satisfaction that the independence of the organs that are currently entrusted with the fight against corruption in Cyprus is not in any manner put in question. Obviously, this is largely due to the existence of extensive guarantees in the Constitution and the laws governing their operation. The GET recognises that in countries where considerable importance is placed on the existence of such guarantees, differences in the level of formal protection can be perceived as potential limitations on the independence of the organs that fare less well than others. This would appear to be the case in Cyprus with the question of the budget of some organs. For example, while the salaries of the President and the members of the Public Service Commission are paid out of the "consolidated fund", its budget and the budget of other authorities, including the Audit Office, is subject to parliamentary approval. The GET recommends that the authorities of Cyprus examine whether a more coherent approach to this question would not be more advisable. In any event, the GET considers that, in the present circumstances, there is no indication that the differences in formal protection have had an adverse effect in practice on the independence of the authorities in charge of the fight against corruption in Cyprus.
75. As regards the autonomy of these authorities, the GET notes that the manner in which the law-enforcement system in Cyprus is organised allows for a certain degree of involvement of some organs in the sphere of activity of others. However, valid reasons are usually advanced to justify this. For example, although the police force has operational independence, it still comes under the responsibility of the Ministry of Justice and Public Order. This, however, occurs in order to ensure political accountability.
76. Moreover, the investigating function is in principle kept separate from the prosecuting one, at least in the case of the more serious offences including those related to corruption. However, the Attorney-General exercises supervision over the CID officers who investigate such cases. It is in

his/her capacity as a supervisor of the criminal investigation that s/he receives all corruption files. This practice inevitably gives the Attorney General significant clout over all corruption investigations. However, it also constitutes a safeguard against the possibility of an abusive exercise by a police officer of the discretion s/he appears to have under section 4 of the Law on Criminal Procedure to investigate or not into the commission of an offence. The power of the Attorney-General to appoint outside experts who can take over the investigation of corruption-related offences from the police (“independent investigators”) can be seen as another important safeguard; this power is exercised, *inter alia*, in cases where the police themselves are suspected of corruption.

77. Of course, the GET does not lose sight of the fact that the Attorney-General has the discretionary power under the Constitution to discontinue a criminal prosecution on the basis of the largely undefined concept of “public interest”. One can easily envisage that the exercise of a discretionary power not to prosecute can raise questions in politically sensitive corruption cases. However, the Attorney-General is an independent legal officer and the GET was assured that the reasons for a decision not to prosecute are recorded in the file. Moreover, the current Attorney-General has often taken the initiative to explain to the public and the House of Representatives the reasons for not prosecuting sensitive cases. The GET recognises the importance of transparency in the exercise of discretionary powers. This is why it observes that it is necessary to continue the current practice, if necessary by embodying it into appropriate standard setting provisions.
78. This observation notwithstanding, the GET does not find any indication that the various “checks and balances” that exist in the law-enforcement system in Cyprus amount to an encroachment on the autonomy of any of the authorities involved in the fight against corruption or that the latter can be subjected to improper influence.
79. As regards the resources that have been put at the disposal of the bodies that fight corruption, the GET considers that, although there is always some room for improvement, these are broadly speaking commensurate to the extent of the problem facing Cyprus. The GET also considers that appropriate skills exist in all the relevant bodies. In the case of the police the GET notes that investigations into serious corruption offences are handled by members of the central CID who can co-opt skilled territorial officers, specialists from the Financial Crimes Unit and even outside experts. In the view of the GET, this is an acceptable manner of ensuring a certain degree of specialisation in a police force serving the needs of a relatively small society that is not confronted with a particularly acute problem of corruption. On the positive side, the GET finally notes that the confidentiality of criminal investigations and the persons who help the authorities that combat corruption are adequately protected in Cyprus.
80. However, the law-enforcement system is not free from possible weaknesses. The major such weakness is its reliance on the reporting of incidents of corruption as the principal mechanism for triggering a criminal investigation. Reminding that corruption is a well-concealed offence, which is rarely reported, would be stating the obvious. What is, however, particularly striking in Cyprus is the absence of a clear domestic-law provision making it obligatory for civil servants to report suspicions of criminal offences. In the light of the above, the GET recommends that the law should be amended to place civil servants under a clear obligation to report suspicions of corruption offences.
81. More in general, the GET considers that the authorities of Cyprus should take a more proactive approach in combating corruption. The first step in the direction should be a regular assessment by the police of the threat posed by organised crime as a privileged user of corruption. The GET

recommends that the police should develop systems that will enable it to conduct such an assessment annually.

82. Another area where the law-enforcement system does not appear sufficiently proactive is intelligence gathering. In this connection the GET has three recommendations to make. First, the GET attaches a lot of importance to the effective reporting of suspicious transactions as means of obtaining the necessary data on whether predicate offences of corruption are hidden behind suspicions of money-laundering. The GET does not have any doubt about the good internal functioning of the Unit for Combating Money-Laundering. However, not everybody appears to comply with their obligation to report suspicious financial transactions in full (e.g. lawyers and accountants). The GET, therefore, recommends that a particular effort should be made to raise awareness regarding the link between money-laundering and corruption. Two professions that have an important role to play in this connection are those of accountants and lawyers and the GET recommends that guidance notes should be established for the recognition of suspicious transactions by them.
83. Secondly, the GET notes that there exist gaps in the sharing of information between the Customs and Excise Service, the Income Tax and VAT Department and the police. Therefore, it recommends the creation of appropriate links between the data-collection systems of the authorities mentioned above, on the understanding, of course, that the sharing of information would be authorised by law and restricted to appropriate cases where the adverse effects of the intrusion of privacy will be counterbalanced by the gravity of the concerns about the risk of corruption.
84. Thirdly, the GET notes that, when it comes to covert surveillance, Cyprus has one of the most protective regimes for the individual. The GET recognises the threat that covert surveillance can pose to civil liberties. However, it also recognises that the data obtained thereby often play a pivotal role in the fight against offences that are difficult to detect such as corruption. As a matter of fact, the GET finds it difficult to understand how the Cypriot police authorities can be effective in the fight against corruption without a relaxation of the present regime. Therefore, the GET recommends that the restrictions on the use of electronic surveillance ("metering", telephone-tapping and other intrusions of privacy) should be relaxed to the extent permitted by Article 8 of the European Convention on Human Rights.
85. Finally, the GET has two more general points to make concerning complaints against the police and the Republic's system of auditing.
86. The GET noted that the number of complaints against police officers is in general very low. The explanation for this could range from quasi-blind public confidence in the police service to lack of awareness or even absolute lack of confidence in the system. The GET does not wish to imply any failure on the part of the police service. However, it considers that the system of complaints against police should be put to a real test to assess whether it can provide an appropriate response to credible complaints against corruption. This would be the first recommendation of the GET. Its second recommendation is that the authorities should examine the possibility of creating a specialised complaints-unit within the police, which would be surrounded with all the appropriate guarantees of independence.
87. As for auditing, the GET considers that a system of effective control of the use of public money can make an important contribution in the fight against corruption in all GRECO members. The Audit Office in Cyprus appears to have both the skills and the determination to assume a leading role in

this connection. The only problem is that its mandate is in some respects unduly limited. The GET, therefore, recommends that it should be extended to cover a wider category of end users of public funds, including the political parties.

c. Immunities

88. The GET does not consider that the immunities that exist in the legal system of Cyprus unduly inhibit the fight against corruption.

IV. CONCLUSIONS

89. Cyprus appears to belong to the group of GRECO members that are least affected by corruption. However, like every other Member State, it needs to prepare for the future, especially since there exist several factors that render it to a certain degree vulnerable. These have to do with the relations of trust that inevitably develop in small societies, the customer-provider type of relationship that exists between political parties and their voters, the increasing pressures on the holders of political office by powerful social and financial groups, the over-deferential attitude displayed by some categories of civil servants vis-à-vis political figures and members of their family and the existence of a large off-shore sector. The authorities of Cyprus appear to be well aware of the risks and have taken a number of initiatives with a view to tightening up their criminal legislation on corruption. However, Cyprus still lacks a comprehensive anti-corruption policy. The absence of any regulation on party-funding is evidence to that. Moreover, although the country can rely on a range of independent and adequately skilled authorities for the fight corruption, its law-enforcement mechanism does not use sufficiently proactive methods and its intelligence-gathering system has several pitfalls. Finally, the internal complaints system of the police has not been sufficiently tested in practice and the competence of the Audit Office is in some respects unduly restricted.

90. In view of the above, GRECO addressed the following recommendations to Cyprus:

- i. the creation of the specialised body to advise on anti-corruption policy which is already under consideration by the Cypriot authorities; this should have a widely-representative composition; its mandate should enable it to make a contribution to policy co-ordination, elaborating proposals for legislative change, making suggestions for the elimination of the conditions that enable or facilitate corruption and identifying areas that should be given priority attention; it should be also entrusted with publicly promoting the fight against corruption;
- ii. that a system should be established for the declaration of assets and interests of high State officials, including Members of Parliament, the President of the Republic, the Attorney-General and Ministers;
- iii. that the authorities of Cyprus examine whether it would be advisable to develop a more coherent approach on the arrangements for the approval of the budget of the various authorities that are entrusted with the fight against corruption;
- iv. that the law should be amended to place civil servants under a clear obligation to report suspicions of corruption;
- v. that the police develop systems for an annual assessment of the threat posed by organised crime as a privileged user of corruption;

- vi. that a particular effort should be made to raise awareness regarding the link between money-laundering and corruption and that guidance notes should be established for the recognition of suspicious transactions by accountants and lawyers;
 - vii. the creation of appropriate links between the data-collection systems of the authorities mentioned above on the understanding, of course, that the sharing of information would be authorised by law and restricted to appropriate cases where the adverse effects of the intrusion of privacy will be counterbalanced by the gravity of the concerns about the risk of corruption;
 - viii. that the restrictions on use of electronic surveillance (“metering”, telephone-tapping and other intrusions on privacy) should be relaxed to the extent permitted by Article 8 of the European Convention on Human Rights;
 - ix. that the system of complaints against police should be put to a real test to assess whether it can provide an appropriate response to credible complaints against corruption and that the authorities should examine the possibility of creating a specialised complaints-unit within the police, which would be surrounded with all the appropriate guarantees of independence;
 - x. that the mandate of the audit office should be extended to cover a wider category of end users of public funds, including the political parties.
91. Moreover, the GRECO invites the authorities of Cyprus to take account of the observations made by the experts in the analytical part of this report.
92. Finally in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of Cyprus to present a report on the implementation of the above-mentioned recommendations before 30 June 2003.

APPENDIX I

PREVENTION OF CORRUPTION LAW

(CAP. 161)

Short title.

1. This Law may be cited as the Prevention of Corruption Law.

Interpretation.

2. In this Law –

“agent” includes any person employed by or acting for another and any Person serving under the Crown or under any public body;

“consideration” includes valuable consideration of any kind;

“principal” includes an employer;

“public body” includes local and public authorities of all descriptions.

Punishment of corrupt transaction with agents.

3. If –

(a) any person corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, or consideration as an inducement or reward for doing or for bearing to do, or for having after the passing of this Law done or forborne to do, any act in relation to his principal's affairs or business, or for showing or for bearing to show favour or disfavour to any person in relation to his principal's affairs or business: or

(b) any person corruptly gives or agrees to give or offers any gifts or consideration to any agent as an inducement or reward for doing or for bearing to do, or for having after the passing of this Law done or for borne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(c) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

Increase of punishment in special cases.

4. A person convicted of an offence under the preceding section shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with Her Majesty or any Government Department or any public body or a sub-contract to execute any work

comprised in such a contract, be liable to imprisonment for a term not exceeding seven years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

Presumption of corruption in certain cases.

5. Where in any proceedings against person for an offence under this Law, it is proved that any money, gift, or other consideration has been paid or given to or received by a person in the employment of Her Majesty or any Government Department or a public body by or from a person or agent of a person, holding or seeking to obtain a contract from Her Majesty any Government Department or public body, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Law unless the contrary is proved.

Prosecutions.

6. A prosecution for an offence under this Law shall not be instituted without the consent of the Attorney-General.

Saving.

7. Nothing in this Law contained shall be deemed to affect the provisions of any other Law at present in force in Cyprus.

APPENDIX II

CRIMINAL CODE

(CAP. 154 as amended)

Official corruption.

100. Any person who –

(a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly asks, receive or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for him self or other person on account or anything already done or omitted to be done, or to be afterwards done or omitted to be done by him self in the discharge of the duties of his office; or

(b) corruptly gives, confers or procures, promises or offers to give or confer, or to procure or attempt to procure, to , upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of person so employed,

is guilty of the misdemeanour, and is liable to imprisonment for five years, and also to a fine.

Extortion by public officers.

101. Any person who, being employed in the public service, takes, or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emolument or any promise of such reward is guilty of a misdemeanour, and is liable to imprisonment for three years, and also to a fine.

Public officers receiving property to show favour.

102. Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending, or likely to take place, between the person giving the property or coffering the benefit, or any one in whom he is interested, and any person employed in the public service, is guilty of a misdemeanour, and is liable to imprisonment for two years and also to a fine.

Officers charged with administration of property of a special character or with special duties.

103. Any person who, being employed in the public service, and being charged by virtue of his employment with any judicial or administrative duties respecting properties of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding, directly or indirectly, a private interest in any such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business, in which he has such interest or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour, and is liable to imprisonment for one year.

False Claims by officials.

104. Any person who, being employed in the public service in such a capacity as to require him to enable him to furnish returns or statements touching any sum payable to himself or claimed to be payable to himself or to any other person or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment for three years, and also to a fine.

Abuse of office.

105. Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial the rights of another is guilty of a misdemeanour.

Corruptly taking a reward.

126. Every person who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to recover any property which has, under circumstances which amount to felony or misdemeanour, been stolen or obtained in any way whatsoever, or received, is (unless he has used all due diligence to cause the offender to be brought for trial to the same) guilty of felony and is liable to imprisonment for five years.

APPENDIX III

A LAW TO RATIFY THE CONVENTION OF THE COUNCIL OF EUROPE FOR THE PENALIZATION OF CORRUPTION

(Number 23 (III) of 2000)

Short title.

1. This Law shall be referred as the Council of Europe Convention for the Penalization of Corruption (Ratification) Law of 2000.

Interpretation.

2. In this Law unless the context otherwise requires-

“Convention” means the Convention of the Council of Europe for the Penalization of Corruption of 27 January 1999 the context of which is set out in English in Part I of the Schedule and in Greek translation in Part II of the Schedule:

Provided that in case of contrast between the two texts, the English original text shall prevail.

Ratification.

3. The Convention signed by the republic of Cyprus by virtue of the Council of Ministers Decision No. 51.424 dated 22-23.3.2000 by this Law hereby ratified and shall be applied according to the following provisions subject to the reservations and communications which the Republic of Cyprus has made and are included in the conclusion of the Convention.

Offences and penalties.

4. The acts referred to in the articles of the Convention here in below set out are established as criminal offences punishable with imprisonment for up to seven years or with a fine up to ten thousand pounds or with both such penalties, without prejudice to the Court before which the case is tried to impose any other penalty or to issue any order that it may impose or issue during the trial or criminal cases; The articles are:

- | | |
|----|---|
| 2 | Active bribery of domestic public officials. |
| 3 | Passive bribery of domestic public officials. |
| 4 | Bribery of members of domestic public assemblies. |
| 5 | Bribery of foreign public officials. |
| 6 | Bribery of members of foreign public assemblies. |
| 7 | Active bribery in the private sector. |
| 8 | Passive bribery in the private sector. |
| 9 | Bribery of officials of international organizations. |
| 10 | Bribery of members of international parliamentary assemblies. |
| 11 | Bribery of judges and officials of international courts. |
| 12 | Trading in influence. |
| 13 | Money laundering of proceeds from corruption offences. |

- 14 Account offences.
- 15 Participatory acts.
- 18 Corporate liability.

Immunities.

5. The provisions of this Law shall be applied without prejudice to the privileges and immunities provided by the Constitution.

Jurisdiction.

6. Without prejudice to the provisions of section 5 of the Criminal Code referring to the jurisdiction of the Courts of the Republic, offences committed in contravention of the provisions in contravention of the provisions of this Law, shall be tried before the Courts of the Republic in the cases referred to in article 17(1)(c) of the Convention.

Offences under section 4 of this Law that constitute simultaneously predicate offences for the application of Law No. 61(l) of 1996.

7. Acts which constitute offences under section 4, shall constitute simultaneously predicate offences for the purposes of application of the Prevention and Suppression of Money Laundering Activities Law of 1996.

Regulations.

8. The Council of Ministers may make Regulations for better carrying out the purposes of this Law which shall be laid before the House of Representatives for approval.

Central Authority.

9. The Ministry of Justice and Public Order shall be the Central Authority under Article 29 for the purposes of application of the Convention.