



Strasbourg, 5 April 2005

Greco (2005) 5E

22nd Plenary Meeting of GRECO
(Strasbourg, 14-18 March 2005)

SUMMARY MEETING REPORT

I. Opening of the meeting

1. The 22nd Plenary Meeting of GRECO was opened and chaired by the President, Mr Drago KOS (Slovenia). The list of participants appears in Appendix I to this report.
2. The President welcomed all representatives, referring in particular to those who had been newly nominated. He expressed satisfaction in welcoming the representatives of Andorra which had joined GRECO as its 39th member on 28 January 2005. The Head of Delegation of Andorra looked forward to making a useful contribution to GRECO's work.

II. Adoption of the agenda

3. The draft agenda was adopted as it appears in Appendix II to this report.

III. Information provided by the President

4. The President reported on a presentation on "Corruption and Human Rights" which he had made the previous week to the Society of Greek Criminologists. Participants had shown great interest in and good knowledge of GRECO's work. During his visit, the Greek authorities had indicated their intention to shortly authorise publication of GRECO's First Round Compliance Report on Greece¹.
5. He reported on the principal items examined by the Bureau at its 28th meeting, held in Strasbourg on 3-4 February 2005 (cf. Greco (2005) 3E) :
 - the intention of the Council of Europe Development Bank (CEB) to make a formal request to appoint a representative to GRECO. The Bureau would raise no objection to this request which would be decided on by the Committee of Ministers after consulting GRECO, pursuant to Article 7, paragraph 2 of GRECO's Statute;
 - the G8 commitment to counteract large scale or "grand" corruption and to facilitate the recovery of illicitly acquired assets through the setting up of "rapid response teams" (cf. presentation by Mr Mark RICHARD below);
 - the results of the preliminary discussion by the Bureau on possible topics for GRECO's Third Evaluation Round. He called upon the active participation of all delegations in the round table discussions to be held on this matter during the present Plenary. A decision on the topics of the Third Evaluation Round would then be taken by GRECO 23;
 - detailed discussions on voting, resulting in the laying down of a clear procedure to be recalled by the Secretariat and followed by GRECO when the need to vote arises.

IV. Information provided by the Executive Secretary

6. The Executive Secretary reported on the following developments since GRECO's 21st Plenary Meeting (December 2004):
 - his participation in the first meeting of the Study Group on a follow-up monitoring process for the United Nations Convention against Corruption (UNCAC) (Paris, 8

¹ Following authorisation by the national authorities, the First Round Compliance Report on Greece was made public on 23 March 2005.

December 2004). The Group is an initiative of Transparency International (TI) and includes representatives of the United Nations Office for Drug Control and Crime Prevention (UNODC), UNICRI, OECD, US Department of Justice and DFID (Department for International Development – United Kingdom). An "Outline for TI Study of Follow-up Monitoring Process for the United Nations Convention against Corruption" forms the basis of the Study Group's discussions. Transparency International is conducting the study with a view to developing specific proposals for UNCAC monitoring to be submitted to UNODC by end 2005. The Conference of States Parties provided for under the Convention will be held once 30 States have ratified UNCAC (maybe by end 2006) and the issue of monitoring will no doubt be an important item on the Conference's agenda. The Secretariat has submitted a description of the GRECO mechanism to be included in the Outline under the heading "Survey of Existing Monitoring Programmes". So far, discussions within the Study Group show that the United Nations considers that no monitoring is better than bad monitoring; that duplication is to be avoided; and that a system may be adopted whereby the same issue is not monitored in each State Party. This innovative idea was tabled bearing in mind indications that some regions may not accept uniform monitoring. GRECO may be asked to contribute to monitoring and the Executive Secretary recalled that the Deputy Secretary General of the Council of Europe, Maud DE BOER-BUQUICCHIO, had indicated, during the Opening session of the Inter Agency Group on Anti-corruption Co-ordination (IGAC) (Merida, Mexico : December 2003) that the Council of Europe could contribute to UNCAC monitoring. The Secretariat will continue to be represented at the Study Group meetings, the next of which was to be held on 18 March 2005;

- a draft European Council Resolution concerning the communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a comprehensive EU policy against corruption (agreed on at a meeting of the Article 36 Committee (CATS) on 1 March 2005) which urges members to ratify the Civil and Criminal Conventions on Corruption (ETS n^{os} 173 and 174) and sets out two options for monitoring, either participation in GRECO or a monitoring mechanism to evaluate only European Union instruments. It was to be noted that two options had apparently been abandoned : a separate European Union mechanism with a more comprehensive monitoring mandate and a mechanism to monitor both European Union instruments and UNCAC;
- a forthcoming meeting between the Secretary General of the Council of Europe, Mr Terry DAVIS and the Vice-President of the European Commission and Commissioner for Justice, Security and Liberty, Mr Franco FRATTINI, where the possible accession of the European Union to GRECO might be evoked;
- no new ratifications of the Criminal Law Convention on Corruption (ETS n^o 173);
- the ratification by Armenia of the Civil Law Convention on Corruption (ETS n^o 174), the Convention will enter into force in respect of Armenia on 1 May 2005;
- the entry into force of the Additional Protocol to the Criminal Law Convention on Corruption (ETS n^o 191) on 1 February 2005 (States Party : Albania, Bosnia and Herzegovina, Norway, Romania, Slovenia, Sweden, United Kingdom);
- the Council of Europe Member States which had not yet joined GRECO were Austria, Italy, Liechtenstein, the Russian Federation, San Marino, Switzerland and Ukraine. The Secretariat had heard that Austria was in the process of ratifying the Criminal and Civil Law Conventions on Corruption (ETS n^{os} 173 and 174) and may therefore join GRECO in the not too distant future. Switzerland was likely to complete the ratification process of the Criminal Law Convention on Corruption (ETS n^o173) by early 2006. The Russian Federation had begun the ratification

process of the Criminal Law Convention on Corruption. In a recent speech to the Parliamentary Assembly of the Council of Europe, the President of Ukraine, Mr YUSHCHENKO had made a pledge to "cure the Ukrainian public authorities of corruption". Ukraine had shown strong interest in GRECO and intended to ratify the Civil Law Convention on Corruption shortly². In addition, Mr P. SCHIEDER, President of the Parliamentary Assembly of the Council of Europe had, in a key note speech delivered to the Standing Committee of the Mexican Union Congress (Mexico City, 12 January 2005), encouraged the authorities of Mexico to ratify the Criminal Law Convention on Corruption;

- the completion of a reworked and newly designed GRECO leaflet on "Monitoring compliance with Council of Europe anti-corruption standards", copies of which would be available by the next Plenary.

V. Second Round Evaluation procedure

Examination of the draft Evaluation Reports on Albania, Denmark and Sweden

7. GRECO examined the draft (P3) Second Round Evaluation Report on Albania.
8. Members of the Evaluation Team (cf. list of participants) made introductory presentations. The representatives of Albania presented their authorities' comments, which were followed by a first reading of the draft report (paragraph by paragraph).
9. GRECO adopted the Second Round Evaluation Report on Albania as it appears in Greco Eval II Rep (2004) 8E, following a second reading.
10. GRECO examined the draft (P3) Second Round Evaluation Report on Denmark.
11. Members of the Evaluation Team made introductory presentations. The representatives of Denmark presented their authorities' comments, which were followed by a first reading of the draft report (paragraph by paragraph).
12. GRECO adopted the Second Round Evaluation Report on Denmark as it appears in Greco Eval II Rep (2004) 6E, following a second reading.
13. GRECO examined the draft (P3) Second Round Evaluation Report on Sweden.
14. Members of the Evaluation Team (cf. list of participants) made introductory presentations. The representatives of Sweden presented their authorities' comments, which were followed by a first reading of the draft report (paragraph by paragraph).
15. GRECO adopted the Second Round Evaluation Report on Sweden as it appears in Greco Eval II Rep (2004) 9E, following a second reading.
16. GRECO invited the authorities of Albania, Denmark and Sweden to authorise, as soon as possible, the publication of their respective Evaluation Reports.
17. GRECO approved the composition of Second Round Evaluation Teams in charge of the evaluation of the Czech Republic and Portugal (Greco Eval II (2003) 1bil of 14 March 2005).

² During the present Plenary, GRECO was informed that the Ukrainian Parliament had ratified that convention on 16 March 2005.

VI. First Round Compliance procedure

Examination of the draft Compliance Reports on the Czech Republic, Hungary, and the Netherlands

18. GRECO examined the draft (P3) First Round Compliance report on the Czech Republic. It was based on the Situation Report forwarded by the Czech authorities (Greco RS-I (2004) 12E) and additional information provided by the country. Following a debate, GRECO adopted the First Round Compliance Report on the Czech Republic as it appears in Greco RC-I (2004) 12E.
19. GRECO examined the draft (P3) First Round Compliance report on Hungary. It was based on the Situation Report forwarded by the Hungarian authorities (Greco RS-I (2004) 14E) and additional information provided by the country. Following a debate, GRECO adopted the First Round Compliance Report on Hungary as it appears in Greco RC-I (2004) 14E.
20. GRECO examined the draft (P3) First Round Compliance report on the Netherlands. It was based on the Situation Report forwarded by the authorities of the Netherlands (Greco RS-I (2004) 13E) and additional information provided by the country. Following a debate, GRECO adopted the First Round Compliance Report on the Netherlands as it appears in Greco RC-I (2004) 13E.
21. GRECO noted with satisfaction that the national authorities authorised publication of the First Round Compliance Report on Hungary.
22. GRECO invited the delegations of the Czech Republic, and the Netherlands to authorise publication of their respective First Round Compliance Reports.

VII. Procedure under Rule 32, paragraph 2 of the Rules of Procedure

23. GRECO examined the Comments III (Greco Eval I (2005) 2E) prepared by its Special Rapporteur, Mr Ákos KARA (Hungary), on information provided by the delegation of Georgia pursuant to Rule 32, paragraph 2, al. (i) of GRECO's Rules of Procedure and in accordance with Decision 12 of GRECO 16 and Decision 17 of GRECO 19. GRECO welcomed the progress reported in respect of a number of First Round recommendations and urged the Georgian authorities to pursue their efforts to comply with recommendations not yet addressed in an appropriate manner, bearing in mind the observations made in the aforementioned Comments III. The delegation of Georgia was invited to submit to the Executive Secretary by 6 June 2005 the additional information necessary for the overall assessment by GRECO 24 of Georgia's compliance with GRECO's First Round Recommendations, (cf. paragraph 116 of the First Round Compliance Report on Georgia – Greco RC-I (2003) 12E).

VIII. Draft amendment to GRECO's Rules of Procedure

24. GRECO examined an amendment - proposed by Bureau 28 - to Rule 31 of its Rules of Procedure concerning Additional Reports required by First Round Compliance Reports. The amendment was adopted (Greco (2004) 20 Final) and the Secretariat was instructed to revise the Rules of Procedure accordingly.

IX. Fifth General Activity Report (2004)

25. GRECO examined its draft Fifth General Activity Report (2004) which had been approved by Bureau 28. The President welcomed the inclusion, for the first time, of a substantive issue : "Immunities of public officials as possible obstacles in the fight against corruption"; this innovation had greatly improved the quality of the report. Ideally, future General Activity Reports should also address matters of substance, and could thus become more attractive to interested specialist circles and the general public.
26. The representative of the United States of America, Mr Mark RICHARD, suggested that reference be made to the general trend, at international level, for evaluation and monitoring mechanisms and the need for a detailed examination of the implications with regard to international resources and competences available for implementing such monitoring. The President indicated the need for the report to reflect GRECO's position during the period covered as well as the fact that reflections, at international level, on the development of monitoring mechanisms, in particular UNCAC monitoring, were not as yet advanced enough for a position to be taken on the issue. The Executive Secretary indicated that the concerns expressed by the Representative of the United States of America would certainly be included in the discussions to be held on the content of GRECO's Third Evaluation Round and could in that context be covered by the substantive section in GRECO's Sixth General Activity Report (2005) which could deal with its future work and how it perceives its role, making reference, in particular, to the multiplication of international monitoring mechanisms. The President asked the Executive Secretary to ensure that such a proposal be made when preparing GRECO's Sixth General Activity Report (2005).
27. The Report was adopted (Greco (2005) 1E Final) and the Secretariat was instructed to forward it to the Statutory Committee and to the Committee of Ministers of the Council of Europe, in accordance with Article 8, para. 1, iii of the Statute. GRECO noted that the President of GRECO would be asked to present the report at a hearing during a forthcoming meeting of the Ministers' Deputies of the Council of Europe.

X. Third Evaluation Round

28. The President opened the round table discussion on possible topics for GRECO's Third Evaluation Round, drawing attention to the substantive issues discussed by Bureau 28 as outlined in its Summary Report (Greco (2005) 3E).
29. The Executive Secretary presented the main conclusions drawn by the Secretariat after detailed consideration of the possible options, as reflected in the Summary Report of Bureau 28. The Secretariat proposal : "*Public accountability and corruption*" would cover GPC 13 (public liability/accountability) and GPC 15 (codes of conduct for elected representatives; financing of political parties and election campaigns) in conjunction with Recommendations No. R (2000) 10 on Codes of Conduct for Public Officials and Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.
30. The President gave the floor to each delegation in turn. A large number of delegations voiced support for the Secretariat proposal. There was general support for the idea that the Third Evaluation Round should have a clearer focus and identity than previous rounds. The multidisciplinary nature of GRECO would be well reflected by this choice of topic. The funding of political parties was in particular highlighted as being a very topical issue which reflected public concern and debate in a number of member States. Despite the highly sensitive nature of

the issues to be examined, the President felt that, if it succeeded, GRECO's position on the international scene would be strengthened.

31. Some doubts were expressed as to monitoring one or other specific part of the Secretariat proposal. Some suggestions were made to include GPC 1, Article 19, para. 1 of the Criminal Law Convention on Corruption, legislation on conflicts of interest and to reflect upon possible implications of Articles 10 and 11 of the European Convention on Human Rights. However, a number of delegations strongly favoured focusing on only one aspect, in particular GPC 15 (possibly omitting, however, the issue of codes of conduct for elected representatives) and the related Recommendation Rec (2003) 4. It was considered that it may be wise not to include GPC 13 (which was linked to Article 5 of the Civil Law Convention on Corruption).
32. Some delegations expressed disagreement with the Secretariat proposal. Difficulties could be foreseen, in particular, with regard to clarifying the exact scope of monitoring. Moreover, in the absence of substantive international agreement on standards among GRECO members in this area, it would be difficult to achieve credible monitoring results. Finally, ensuring appropriate expertise in the composition of evaluation teams might prove problematical.
33. Other possible topics for the Third Evaluation Round favoured by several delegations included : the *incriminations* provided for by Articles 2 to 12 of the Criminal Law Convention on Corruption; *international cooperation in criminal matters*; *corruption in the private sector and trading in influence*; or *research on corruption*.
34. Some delegations wondered to what extent "soft-law" instruments, i.e. recommendations, could be usefully monitored, as well as to what extent monitoring was possible or desirable in the absence of pertinent domestic legislation. The President recalled that GRECO was specified as the body responsible for monitoring the standards laid down in all the six normative instruments under its purview³. Moreover, not only legislation, but also rules and regulations, should form the basis of evaluation, as has already been the case to some extent during the First and Second Evaluation Rounds.
35. Several delegations stressed that GRECO's monitoring methodology would need to be improved and rationalised. For example, its work would benefit from developing a pre-defined set of common standards/indicators to be applied in order to ensure a consistent approach and equal treatment among members. The related questionnaire should be streamlined. When eventually deciding on the topics to be covered by the Third Round, GRECO should also examine some of the logistical aspects of its work : the length of on-site visits, composition of evaluation teams and profile of national interlocutors; the balance between oral and written evaluation.
36. The need to avoid duplication of monitoring by other international bodies would need to be considered, even though not all GRECO members were concerned. More importantly, GRECO's possible contribution to UNCAC monitoring would have to be borne in mind.

³ I.e. the Twenty Guiding Principles for the fight against Corruption (Resolution (97) 24), the Criminal Law Convention on Corruption (ETS 173), the Civil Law Convention on Corruption (ETS 174), the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191), Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials and Recommendation Rec (2003) 4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.

37. The President instructed the Secretariat to formulate, in the light of the discussions, proposals on the content of the Third Evaluation Round as well as the methodology to be applied, for further examination by Bureau 29. Subsequently, Bureau 29 would submit proposals to GRECO 23 for decision.

XI. "Grand" Corruption

38. Due to a lack of time, it was decided to postpone the presentation by Mr Mark RICHARD (Head of Delegation, United States) on large scale or "grand" corruption to GRECO 23.

XII. Miscellaneous

39. GRECO was informed of two forthcoming Stability Pact for South Eastern Europe – Anti-Corruption Initiative (SPAI) meetings : A high level expert Conference on Fighting Corruption to Improve the Business/Investment Climate in South East European Countries (Brussels, 11 May 2005) and a Ministerial Conference on Joint Measures to Curb Corruption in South East Europe (Brussels, 12 May 2005) as well as an Octopus Interface Conference on Economic Crime : Challenges for Europe, co-organised by the Ministry of Justice of Portugal and the Council of Europe (Lisbon, 28-30 September 2005).
40. The President bid farewell to Ms Karin BINDEROVA (Czech Republic) and Ms Angelika LAITENBERGER (Germany), wishing them success with their new professional responsibilities and thanking them for their constructive contributions to GRECO's work.

XIII. Adoption of decisions

41. GRECO adopted the decisions of the 22nd Plenary Meeting, as they appear in Greco (2005) 4E.

XIV. Dates of forthcoming meetings

42. GRECO's 23rd Plenary Meeting would be held in Strasbourg on 17-20 May 2005. GRECO noted that its Bureau would meet on 18-19 April 2005 in Strasbourg.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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INTERPRETERS / INTERPRETES

Mme Sally BAILEY

Mme Isabelle MARCHINI

Mme Julia TANNER

APPENDIX II

AGENDA / ORDRE DU JOUR

1. Opening of the meeting at **09h30** / *Ouverture de la réunion à 09h30*
2. Adoption of the draft agenda / *Adoption de l'ordre du jour*
3. Information by the President / *Information par le Président*
4. Information by the Executive Secretary / *Information par le Secrétaire Exécutif*
5. Communication by Bureau 28 / *Communication du Bureau 28*
6. **First reading** of the draft Second Round Evaluation Reports on: / **Première lecture** des projets de Rapport d'Évaluation du Deuxième Cycle sur :
 - **Denmark / Danemark** : Monday / *lundi*
 - **Sweden / Suède** : Tuesday / *mardi*
 - **Albania / Albanie** : Wednesday / *mercredi*

The evaluators and the national delegations concerned are, nevertheless, requested to be available during the following periods: / Les évaluateurs et les délégations nationales concernés sont, toutefois, invités à être disponibles pendant les périodes suivantes :

- **Denmark / Danemark** : Monday all day and Tuesday morning / *lundi toute la journée et mardi matin*
 - **Sweden / Suède** : Tuesday all day and Wednesday morning / *mardi toute la journée et mercredi matin*
 - **Albania / Albanie** : Wednesday all day and Thursday morning / *mercredi toute la journée et jeudi matin*
7. Examination and adoption of the draft First Round **Compliance Reports** on : **the Czech Republic, Hungary, and the Netherlands (Thursday)** / *Examen et adoption des projets de Rapport de Conformité du Premier Cycle sur la République Tchèque, la Hongrie et les Pays-Bas (jeudi)*
 8. **Second reading** and adoption of the draft Second Round Evaluation Reports on **Denmark, Sweden and Albania (Vendredi)** / **Deuxième lecture** et adoption des projets de Rapport d'Évaluation du Deuxième Cycle sur **le Danemark, la Suède et l'Albanie (vendredi)**
 9. First Round Compliance Procedure – Examination of additional information to be submitted by Georgia, pursuant to Rule 32, paragraph 2 sub-paragraph (i) of the Rules of Procedure and Decision 15 of GRECO 21 / *Procédure de conformité du Premier Cycle – Examen des informations complémentaires à soumettre par la Géorgie, en vertu de l'article 32, paragraphe 2 alinéa (i) du Règlement Intérieur et de la Décision 15 du GRECO 21*
 10. Additional Reports required by First Round Compliance Procedure : **revised draft amendment to GRECO's Rules of Procedure** (approved by Bureau 28 - for adoption) / *Rapports supplémentaires requis par les Rapports de Conformité du Premier Cycle : projet révisé d'amendement au Règlement Intérieur du GRECO* (approuvé par le Bureau 28 - pour adoption)

11. Draft Fifth General Activity Report (2004) (approved by Bureau 28 - for adoption) / *Projet du Cinquième rapport général d'activités (2004)* (approuvé par le Bureau 28 - pour adoption)
12. Composition of Second Round Evaluation Teams in charge of the evaluation of the Czech Republic and Portugal (Bureau 28 proposals) / *Composition des Equipes d'Evaluation du Deuxième Cycle chargées de l'évaluation de la République Tchèque et le Portugal* (propositions du Bureau 28)
13. Third Evaluation Round : *Tour de table* on possible topics (cf. **Summary Report of Bureau 28, Greco (2005) 3**) / *Troisième Cycle d'Evaluation : Tour de table sur des thèmes éventuels* (cf. **Rapport Sommaire du Bureau 28, Greco (2005) 3**)
14. Presentation by Mr Mark RICHARD on *Grand Corruption* / *Présentation par M. Mark RICHARD sur la "Grande Corruption"*
15. Miscellaneous / *Divers*
16. Adoption of decisions / *Adoption des décisions*
17. Dates of next meetings / *Dates des prochaines réunions*