Groupe d'Etats contre la corruption
Group of States against corruption

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Evaluation Report on Sweden

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I. INTRODUCTION

1. Sweden was the eighth GRECO member to be examined in the First Evaluation Round. The GRECO Evaluation Team (hereafter, "GET") was composed of Mr. Meelis RATASSEPP, Deputy Director of Department, Security Police Board (Estonia, police expert); Mrs Elena ZACHARIADOU, Counsel of the Republic, Prosecutor (Cyprus, prosecution expert) and Mrs Carolyn HUBBARD, Assistant Director, Business Tax Division, Inland Revenue (United Kingdom, policy expert). This GET, accompanied by two members of the Council of Europe Secretariat, visited Stockholm from 21 to 23 November 2000. Prior to the visit the GET experts were provided by the Swedish authorities with a very comprehensive reply to the Evaluation questionnaire (document Greco Eval I (2000) 18) as well as with copies of the relevant legislation.

2. The GET met with officials from the following Swedish Governmental organisations: Ministry of Justice, Office of the Prosecutor General, Economic Crimes Bureau, Ministry of Foreign Affairs, Parliamentary Ombudsmen, Chancellor of Justice, Police Authority, Customs Authority, Courts of Justice, the National Board for Public Procurement, the Swedish Competition Authority and the Swedish National Audit Office, Swedish Association of Local Authorities and Federation of Swedish County Councils.

3. Moreover, the GET met with representatives of the Swedish Institute to Combat Corruptive Practices and journalists of the newspaper *Dagens Nyheter*.

4. It is recalled that GRECO agreed, at its 2nd Plenary meeting (December 1999) that the 1st 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 paragraphs 2 and 3 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 Swedish authorities, 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 Sweden, 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. The second part contains a critical analysis of the situation described previously, assessing, in particular, whether the system in place in Sweden 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 Sweden 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 Sweden

6. Sweden has a surface of 449,964 km² and a total population of about 8,880,000 inhabitants. It has land borders with Norway and Finland and sea borders with Denmark, the Baltic States and Russia. According to the OECD Economic Survey of Sweden (July 1999), "in terms of the level of GDP per capita, Sweden's position is now close to average OECD and European levels". In 1998, Sweden had the eighteenth position in the OECD's league table of the world's twenty-nine richest countries: Sweden's GDP per capita, in 1998, was 1 per cent above the OECD average.

7. Corruption is criminalised, in the Swedish legal system, in different, separate provisions. The Swedish penal code makes a clear distinction between active and passive bribery, offences dealt with in two different Chapters: Chapter 17 Article 7, dealing with active bribery and Chapter 20 Article 2, dealing with passive bribery. Both offences are "(…) punished by fines or imprisonment for not more than two years", where if the passive bribery "(…) constitutes a serious offence, (…) it shall be punished by imprisonment of no less than six months and a maximum of six years". Both provisions are applicable, first of all, in respect of any "employee" who accepts or pays a bribe. Moreover, Chapter 20 Article 2 provides a list of other categories of persons to whom both provisions are "also applicable", which includes, *inter alia*, any member of State administration both at central and local level; any person who exercises an assignment regulated by statute; any person serving the army; any other person who exercises public authority; members of the European Commission, the European Parliament, the European Courts.[1]

8. The period of limitation is in Sweden determined by the length of the imprisonment, which can be imposed for the crime in question. If the crime is punishable by a maximum of one year imprisonment, the period of limitation is two years. If life imprisonment can be imposed for the crime, the period of limitation is 25 years. As regards the crimes concerning corruption, the period of limitation is 5 years for active and passive bribery and 10 years for aggravated cases of passive bribery. The times shall be reckoned from the date when the crime was committed.

9. According to Swedish law, only natural persons can commit crimes. However, the Swedish legislation provides a kind of criminal responsibility for legal persons and other entrepreneurs – including state-owned and municipal trading companies – through the institute of corporate fines, which is regulated in chapter 36, sections 7-17 of the Swedish Penal Code. The entrepreneurs who are legal persons can be imposed a corporate fine on account of crimes committed by a natural person working in the company, even if that person does not have a leading position. The conditions are that the crime has signified a serious disregard of the special responsibilities which are connected with the business or in any other way is by a serious kind and that the entrepreneur has not taken reasonable measures to prevent it.

10. Money laundering has been established in Sweden as a criminal offence since 1991. Also in 1991 a new legislation entered into force making banks and other financial institutions responsible for reporting suspicious transactions to the Financial Intelligence Unit, which is a special branch within the National Police Force. Since the first of July 1999 receiving of money is established as a new separate criminal offence. The new money laundering offence embraces those measures that formerly were criminalised as receiving in chapter 9, section 6, first paragraph 3 and 4 of the Penal Code. Hence, the new offence (chapter 9, section 6 a) criminalises anyone who (a)

[1] A translation of the relevant provisions is included in Appendix I to this report.

improperly promotes the opportunity for another to take advantage of property emanating from the proceeds of crime, or the value of such property or (b) assists in the removal, transfer or sale of property which is derived from the proceeds of crime, or takes some similar measure, with the intent of concealing the origin of property. Furthermore, since 1 July 1999 the offence is broadened to cover also improper assistance to measures with any property (i.e. not only property that is proceeds of crime), if the measures are likely to conceal the fact that another person has enriched himself through a criminal offence. All offences, including corruption and tax and customs offences, can be predicate offences to money laundering. - Negligent money laundering, covering the same predicate offences as intentional money laundering, is also criminalised in the Penal Code (chapter 9, section 7 a). - Hence, the money laundering offence applies to anyone who handles, conceals or disguises the criminal acquisition, not only if he/she had knowledge of its criminal origins, but also if he/she did not realise but, had reasonable doubts to assume that a crime was involved. It is not necessary that there has been a conviction for the predicate offence. It is sufficient that the Court finds that there is enough evidence for it to be held that a predicate offence has been committed. The money laundering offence applies also to the person who commits the predicate offence, but if he/she is convicted for the predicate offence, the money laundering offence will be covered by the sentence for the predicate offence.

11. Sweden has signed the Council of Europe Criminal and Civil Law Conventions. The Swedish Government, and notably the Ministry of Justice, is preparing the legislation enabling the ratification of these instruments. Sweden does not require an international agreement to give effect to a request for mutual legal assistance in criminal matters. The general principle is that mutual legal assistance will be provided under the same general conditions existing in a corresponding measure in the Swedish preliminary investigation or trial. There are no specific factors regarding corruption cases. According to the Swedish law, a request of mutual legal assistance in general can only be refused if the execution of this request would be in breach of Swedish sovereignty, involve risks for national security or be in conflict with the Swedish general principles of law or its essential interests. Sweden does not allow extradition of its nationals to non-Nordic countries.

12. According to the latest available statistics from the National Council for Crime Prevention, provided to the GET during the visit, in 1998 16 persons were sentenced in Sweden for active bribery and 5 for passive bribery whereas, in 1997, the corresponding figures were 13 and 8.

13. According to the information provided to the GET, organised crime is a rather unknown phenomenon in Sweden and there seems to be no indication of any links between detected corruption cases and the activities of organised criminal groups.

14. The figures quoted above are indicative of a very low level of corruption in Sweden. The common view is that corruption is not a major problem for society and therefore the fight against it is not considered as a priority in Sweden. According to the Corruption Perception Index for 1999, issued by Transparency International, Sweden was listed as number 3 with a score of 9.5 out of 10. Moreover, Sweden was listed as the first country (meaning the one with the lowest level of corruption, with a score of 8,4) in the Transparency International Bribe Payers Index (BPI)[2], ranking 19 Leading Exporter Countries. During the visit, both officials of different State agencies and representatives from the civil society met by the GET confirmed this perception of a very low level of corruption.

[2] This index relates to leading exporters paying bribes to senior public officials. In the scoring: 10 represents a perceived level of negligible bribery, while 0 represents responses indicating very high levels of bribery.

15. Therefore, although fighting economic crime (in particular bankruptcy and tax fraud) is, according to the information received by the GET, a priority in Sweden, corruption as such is not viewed as a major problem. There are some other cases which, even if they do not fall into a strict definition of corruption, may be regarded by the public as linked to corruption (such as, for instance, misuse of public functions).

16. The most frequent explanation provided to the GET about the low level of corruption in Sweden was the heavy reliance of Swedish society and institutions on openness and transparency. Since the beginning of the 18th century Sweden has applied the general principle that everyone has the right to look into, print and publish any official document. According to the GET's interlocutors, this is one of the main reasons explaining why corruption did not spread in the country. Nowadays, the "Freedom of the Press Act", a Swedish Constitutional law, establishes the fundamental principle of public access to official documents. This means that in principle the public and media are entitled to have an insight into any State or local authority activity by having access to all documents in their possession. A fundamental restriction to this general right concerns those documents which are classified as "secret" and which protect notably a) the interests of national security and the central finance policy of the Realm, b) the inspection, control or other supervisory activities of a public authority, c) the interest of preventing or prosecuting crime, d) the public economic interest, e) the protection of the personal integrity of private subjects and, finally, f) the preservation of animal or plant species.

17. As the combat against corruption is not viewed as a priority by the Swedish authorities, they have not prepared or adopted any special national programme against corruption or anti-corruption strategy. Besides, there does not exist in Sweden any specialised anti-corruption agency or service.

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

b1. The Police

i) Organisation of the Police

18. According to the Police Act the police are there to promote justice and safety, as part of a general community involvement in the defence of these values. The police's main task is to maintain public order and safety and to provide protection and assistance to the public. In addition to that, the Police Ordinance states that the police shall organise and programme its work so as to ensure an efficient use of the resources allocated to it and to pursue and achieve the objectives and guidelines defined by Parliament and Government.

19. Parliament generally decides on the allocation of resources in the public sector. In conjunction with the budget process, the Government decides on how the overall resources within the police service shall be used. Before taking their decisions on budgetary priorities, Parliament and Government take into account the National Police Board's (hereafter "NPB") Annual Report and budget data, police authorities' operative plans and available data on the extent and development of crime. The general orientation of, and guidelines for, police work are normally reviewed each year. The investigation of corruption cases has not been a priority in recent guidelines for police work.

20. In Sweden, there is only one type of police, which is organised on a central, regional and local level. The police come under the Ministry of Justice. The total number of employees is

approximately 21 500, 16 500 of which are police officers. There are 21 police districts in Sweden corresponding to the 21 counties. Each police district has a police authority headed by a County Chief of Police.

ii) The National Police Board

21. The NPB, headed by the National Police Commissioner, is the central administrative authority of the police service. Its main responsibility is to develop and specify in more detail the objectives and guidelines defined by Parliament and Government for police work, to supervise the police service and to strive for systematic planning, co-ordination and rationalisation within the police service.

22. In the exercise of its supervisory functions, the NPB must ensure, in particular, that: a) police work is conducted effectively, with respect to the rule of law and in conformity with the priorities and guidelines defined by Parliament and Government; b) the police is properly managed. If defined objectives are not met or if police operations are not conducted in a satisfactory manner, the NPB shall seek to remedy the situation by means of comments, requests or in some other way. If necessary, the NPB can report the situation to the Government.

iii) The National Criminal Investigation Department

23. Within the NPB, the National Criminal Investigation Department (hereafter "NCID") is responsible for the operational functions of surveillance, investigation and criminal intelligence, with the exception of those operations falling under the responsibility of the National Security Service or the Economic Crimes Bureau. Among other things, the NCID is responsible for international police co-operation, certain specialised crime investigations, including serious crimes or cases having nation-wide implications or international connections. It will also complement the work of police units, at the request of the competent police authorities and to the extent that resources permit. The trend is towards the NCID acquiring wider duties with regard to international police work and associated matters.

iv) Police authorities

24. Each police district has a police authority, headed by a County Chief of Police, who is responsible for police work in the district, including ordinary management decisions. A County police board is responsible for important matters relating to the management of the police.

25. Each police authorities is called to fix its objectives for operations on the basis of:

- Government's guidelines and priorities,
- NPB's directives for the implementation of guidelines and priorities, and
- Its own analysis of the local situation.

Thus, each police authority is basically empowered to decide on the distribution of available resources and definition of operative priorities. The fact that the competence lies at local level strengthens the influence of citizens and enables police authorities to adapt to local conditions and also to changes.

26. In order to use overall police resources more efficiently, many police authorities have concluded co-operation agreements with other police authorities. Examples of areas where this co-operation

exists are IT operations, criminal intelligence services, training, traffic supervision, forensic science, investigation of complaints against employees within the police, police commissioner preparedness and co-ordination/training of tactical response units.

v) Police staff

27. The NPB decides on the number of police commissioners, except for the county chief of police, in each police authority. Each police authority decides on the number of police officers serving in it. Every police officer must be well acquainted with the regulations that apply within his/her daily work. Similarly, each commissioner within the police shall have thorough knowledge of legal rules within his/her area of responsibility. Most police commissioners are therefore required to have legal knowledge, clear notions of judicial methodology and culture and conflict handling ability.

28. A specialised and centralised police unit under the direct supervision of the prosecutor is in charge of investigating crimes allegedly committed by members of the police force. Corruption within the police is an almost unknown phenomenon in Sweden. Some other bodies such as the Parliamentary Ombudsmen and the Chancellor of Justice are also empowered to supervise the work of the police. The Swedish National Audit Office is also obliged to conduct audits.

29. The Staff Disciplinary Board deals with those irregularities in the police service falling outside the jurisdiction of the National Disciplinary Offences Board. The Board may impose sanctions such as dismissal, suspension and various other disciplinary measures. In 1998 the Board dismissed four employees, all of them police officers. Four employees left the service after the Board had initiated investigations that could have led to their dismissal. In 1998, 16 employees were cautioned and a reduction in pay was imposed on four employees. No one of these cases seems to be related to corruption.

iv) Training

30. In Sweden, criminal investigations are considered as highly qualified police work reserved to specially trained police officers. Criminal investigators are also required to be in possession of special management or organisational capacities and/or have training or experience in international matters. In this respect, the National Police Academy provides different specialised courses to police officers throughout the year. Nevertheless, there are no special training courses related to anti-corruption investigations.

31. Local police authorities are entitled to organise their own training courses, on subjects of specific interest for police officers serving in it. There were 6,155 applicants to enter the National Police Academy in 1998. After theoretical and practical tests and interviews, 201 students were admitted. According to the GET interlocutors, these figures witness the high level of social acceptance and respectability enjoyed by police work in Sweden.

b2. Criminal Investigation of corruption

32. As a general principle, the investigation of criminal offences, including corruption offences, is to be initiated "as soon as (…) there is cause to believe that an offence subject to public prosecution has been committed" (Code of Judicial Procedure, Chapter 23, Section 1). The decision to open a preliminary investigation is made by the police authority or by the prosecutor. In case of serious crimes, the public prosecutor conducts the preliminary investigation, whilst for petty offences the responsibility falls upon the police. However, if the police opened the investigation and the case is

subsequently found to be a serious one, the prosecutor will take over the responsibility for conducting the investigation. The prosecutor shall also take over the conduct of the investigation if special reasons so require. The GET was informed that it is not unusual in Sweden that a criminal investigation is initiated on the basis of information reported in the media.

33. The NPB and the Public Prosecutor's Office undertook the drawing up of new directives for a clearer distribution of the respective responsibilities of the police and the public prosecution in crime investigations. This reflection was completed in 1998 and resulted into the signature of local agreements between all county chiefs of police and chief prosecutors. This led to an improvement and clarification of their respective powers.

34. Investigation of criminal offences is basically governed by the Code of Judicial Procedure. Prosecutions are mandatory whenever there is enough evidence. However, as in other judicial systems, there are exceptions to the rule of mandatory prosecution: 1) if it may be presumed that the offence would not result in a sanction other than a fine; 2) if it may be presumed that the sanction would be a conditional sentence and special reasons justify a waiver of prosecution; 3) if the suspect has committed another offence and no further sanction in addition to the sanction for that offence is needed and 4) if psychiatric or special care are necessary for the accused person. In a more general way, a prosecution may be waived when no sanction is required to prevent the suspect from engaging in further criminal activity, provided that the prosecution is not required for other reasons.

35. Investigative techniques in corruption cases are the same as those that are used in other criminal investigations. The use of special investigative techniques is linked to the seriousness of the offence: the more serious the offence is, the more extensive will be the means authorised in its investigation. According to the Code of Judicial Procedure the following coercive measures can be used:

- Seizure of objects and written documents if they are "reasonably presumed important to a criminal investigation" (Chapter 27, Section 1).
- Secret wiretapping if the offence can be punished with not less than two years imprisonment (Chapter 27, Section 18). It seems therefore to be impossible to use this measure during the investigations related to active and passive bribery crimes because the imprisonment prescribed for these crimes is not more than two years.
- Secret tele-surveillance if the offence can be punished with not less than six months imprisonment (Chapter 27, Section 19).
- Search of premises "if there is a reason to believe that an offence punishable by imprisonment has been committed" (Chapter 28, Section 1).
- Bugging and "agent provocateur" are presently not allowed in Sweden.

36. There is no special programme for the protection of witnesses in Sweden. The measures that should be taken to ensure adequate protection for a witness vary from case to case and depend largely on the person's own wishes in this respect. If witness has an unusual name, is in the telephone directory and is unwilling to change telephone number or move to another address, the only measures available are various forms of physical protection and supervision. A witness may be given a new identity if it is feared that he will be subjected to particularly severe forms of harassment and no other kind of protection is deemed adequate. All the measures that could be taken for protecting witnesses are included in a "Catalogue of witness protection and security measures", edited in 1997 by the Office of the Prosecutor-General and spread to thousands of

police officers and prosecutors. The catalogue contains all the measures that should be taken at the various stage of a crime investigation in cases involving injured persons and witnesses at risk.

b3. The Prosecution Service

37. In Sweden the authority in charge of prosecuting criminal cases is the Public Prosecution Service headed by the Prosecutor-General. The Prosecutor has three main tasks: 1) direct the investigations. Although this function is shared with the police, the leading role belongs to the prosecutor since it is for him/her to direct the investigation or leave it to the police on very minor cases); 2) deciding whether a case should be prosecuted or not and 3) handling the prosecution of the case before the court.

38. Operationally the Public Prosecution Service is divided into 6 Regional Public Prosecution Authorities, each one of them headed by a Director. Besides, the Economic Crimes Bureau, headed by a Director General, is also part of the Public Prosecution Service (see chapter b4 below). There are about 38 Local Units situated all over Sweden and two Special Units, under the Prosecutor General, to handle specialised crime, i.e. the Unit for Special Crime (see below, paragraph 36) and the Unit for Environmental Crime. According to the information provided to the GET, there is no entirely specialised unit dealing with corruption. Corruption cases are dealt with by senior prosecutors who have a great deal of experience. The creation of the Economic Crimes Bureau is a relevant factor in this respect. There are about 700 prosecutors employed in the Public Prosecution Office and the GET was given to understand that these resources are considered to be sufficient to deal with the current workload. The Prosecutor-General himself handles the Supreme Court cases and has a supervisory role over all prosecutors. He/she is also the Administrative Chief for the Prosecution Service.

39. The Unit for Special Crime is a special unit within the Prosecutor-General's Office which handles specialised cases, including major corruption cases. The staff consists of two senior prosecutors (directors) with special knowledge and experience, assisted by four senior police officers with wide experience in criminal investigations and a secretariat. Should the investigative resources assigned to this unit not be sufficient, further resources would be made available through the central and regional police authorities. This unit has handled recent high-profile corruption cases.

40. The Prosecutors are appointed by the Prosecutor General himself and the appointees must possess a Law Degree and must have served for two years as law clerks. Directors of the Regional Prosecution Authorities are appointed by the Government, following a proposal by the Prosecutor- General. According to the indications given to the GET, the appointments are made only on professional merits[3]. An Advisory Board guides the Prosecutor-General in the exercise of his/her powers to appoint prosecutors. However, there does not seem to be in place any additional safeguard (Schemes of Service, Independent Appointments Authority) against the possibility of non-meritorious appointments.

41. In performing his duties, every prosecutor is independent and does not act as a representative of any agency (i.e. Prosecution Office) but in his own capacity as prosecutor. No other prosecutor can influence him. However, the Prosecutor General and Directors of Public Prosecution Authorities as well as the Director General of the Economic Crimes Bureau are empowered to review a decision by a prosecutor on whether to initiate proceedings.

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[3] According to the *Instrument of Government*, when making appointments to posts in the Swedish State Administration, particular attention should be paid to some objective factors such as merit and competence (Chapter 11, article 9).

42. The Prosecution Office is under the Ministry of Justice. The role of the Ministry of Justice in relation to the Public Prosecution Service is to give some general indication, on the budget for instance, and establish also the priorities in the fight against crime. It cannot in any way interfere in the decisions taken by the Public Prosecution Service and cannot influence either the manner in which prosecutors conduct their cases.

43. When criminal proceedings are initiated the prosecutor has the burden of proof to prove a case against a defendant. The Swedish Courts view the prosecutor and the defence lawyer as equals in the proceedings.

44. The Prosecutor-General himself is appointed by the Government on the basis of his professional skills and cannot be removed. S/he is controlled by the Parliamentary Ombudsmen and the Chancellor of Justice.

45. There does not exist any written code of conduct for prosecutors.

46. Rather extensive training is offered to persons who decide to become prosecutors. People who have the qualifications mentioned above would apply for employment at one of the 6 regional prosecution authorities. If approved the young prosecutor becomes a trainee or prosecutor-candidate and is employed on a probation period of 9 months. During this period an experienced prosecutor is linked to the trainee as instructor. The trainee follows the daily work of the more experienced prosecutor in order to obtain practical experience and at the end of the 9-month period an assessment is made whether the trainee is suitable to become prosecutor. If approved the trainee is employed as Assistant Prosecutor and would stay in this position for 2 years. At this stage the first major training is offered to the prosecutor, which is divided into four parts, each part being a four-week course. When the Assistant Prosecutor becomes Public Prosecutor training is offered at least 5 days per year. But last year the training consisted of 17 days for every prosecutor. There is no special training on corruption.

47. As corruption is not considered a major problem in Sweden and is not targeted as such, no statistics are kept as to how many cases on corruption were investigated and how many of those led to prosecutions. The only statistics available are those from the National Council for Crime Prevention referred to above (see paragraph 9 above).

48. The GET was told that over the last five years, there have been four important corruption cases that made the headlines. Three of them were investigated but no charges were brought because of lack of sufficient evidence. The fourth of these cases is still under investigation. The GET was also told that, as far as the representatives of the Public Prosecution Office could remember, no cases of prosecutors charged with corruption or other crimes related to organised criminality have ever been recorded in Sweden.

b4. Economic Crimes Bureau

49. The Economic Crimes Bureau (hereafter "ECB") was established on 1st January 1998 as a specialised authority within the Public Prosecution Service with the aim of concentrating in one body the competence and knowledge for combating economic crime. The ECB is headed by a Director General directly appointed by the Government. As far as prosecution issues are concerned, the Director General is in the same position as Directors in the Public Prosecution Service. The ECB has a staff of approximately 400 people concentrated in three major cities and is composed mainly of prosecutors, police officers, economic investigators and administrative

staff who are jointly responsible for the Bureau's operational duties, that is, detecting and impeding crime, investigating offences and conducting the prosecution of offenders. Usually, teams in the ECB are composed of 1 prosecutor, 2 police officers and 1 specialist in economic and financial issues. The ECB is also responsible for identifying and analysing economic crime and proposing measures as to how crime can be most effectively combated. This includes providing the media, other government agencies and the public with information about economic crime.

50. The ECB's operational area primarily concerns financial fraud and tax crime as well as infringements of the Insider Act and the Financial Instruments Trading Act. It also handles other cases, which require special knowledge of financial matters, business circumstances, tax legislation and other areas. Moreover, the ECB handles cases that concern organised economic crime that extend beyond national boundaries or have an international connection or are significant in nature or extent. Such cases can be taken over by the Bureau following a request by another public prosecution office.

51. This ECB was established after criticism were made by the Swedish Parliament that the investigations and handling of financial crime seemed to take a long time and did not bring significant results. It was created on the principle that the various specialisations and resources should be pooled together for better communication and better results.

52. ECB's representatives reported to the GET that few cases of bribery have been investigated by the ECB, which does not treat corruption as one of its main targets because they believe that corruption is not a serious threat in Sweden.

53. The Prosecutor-General appoints the prosecutors in the Bureau, in the same way as it was explained under the description for his service.

b5. The Courts

54. The Courts whose independence is guaranteed by the Constitution adjudicate corruption cases. Sweden's criminal justice system is divided in three instances: 95 District Courts, dealing with first instance cases; 6 Courts of Appeal and the Supreme Court, which is the highest court of the country. At the level of District Courts and Courts of Appeal adjudication of cases is handled by professional and lay judges together whereas only professional judges work at the Supreme Court. On 1st January 2000, there were 5,520 lay judges serving in District Courts (lay judges are politically elected as representatives of the residents in a court district) and 641 professional judges; 570 lay judges and 454 professional judges at the Courts of Appeal and 53 professional judges (including Justices and Judges Referee - the Supreme Court) at the Supreme Court. Apart from ordinary judges, there are non-ordinary judges, both in District Courts and in Courts of Appeal. According to Chapter 11, Section 5 of the Constitution, a person appointed as a ordinary judge may be removed from his post only if through a criminal act or through gross or repeated neglect of his official duties he has shown himself to be manifestly unfit to hold the office, or if he has reached the relevant age of retirement or is otherwise under a legal obligation to retire on pension. The ordinary judges can also be removed by a decision of the National Disciplinary Board. In this case, they can appeal the Disciplinary Board's decision to the Courts. Justices of the Supreme Court and Supreme Administrative Court can be removed by decision taken by these Courts. Non-ordinary judges follow the same system. The only significant difference is that the system is not regulated by the Constitution, but by the Law on Public Employment. All ordinary judges are appointed by the Government. Judges are independent in performing their

functions and no superior judge can instruct a junior one as to how to adjudicate a case. There is legislation on the qualifications required for appointment as a permanent judge.

55. The Prosecutor-General has the authority to order an investigation on the handling of a case by a judge and in appropriate cases, where evidence exists of the possible involvement of a judge in a crime, to prosecute such judge. Disciplinary proceedings are also possible against a judge. Generally speaking judges are employed full-time and are not entitled to exercise any other activity. However, judges can request an authorisation to perform some other functions, such as lecturing at the University. The salary of judges of lowest rank is about 50,000 € per year, similar to that of high-ranking officials in Public Administration.

56. Although there is no Code of conduct for judges as such, the conduct of judges is governed by different set of provisions. In particular, the Code of Criminal Procedure, Chapter 4, Section 11 provides that every judge has to take an oath before assuming the duties of his/her office in which he/she undertakes to be bound by those rules. The same Code contains detailed provisions on conflicts of interests affecting members of the judiciary. In addition, the Judges' Trade Union has also elaborated ethical rules for judges.

57. There seems to have been no case of corruption involving any judge. The only case reported is an attempt by a citizen to bribe a judge.

58. Once appointed permanent judges do not seem to benefit from a programme of systematic training.

59. In general, District Court judges who handle criminal cases (and, a fortiori, also corruption cases) will also handle civil cases, family cases and, in some districts, land property cases. Nevertheless, in major City Courts, judges handle cases only in one specific branch during a period of time (3-4 years), and move afterwards to a different branch.

b6. Other bodies and institutions

60. There are other authorities in Sweden, which, although not directly involved in the criminal law area, play an important role in the prevention and disclosure of corruption. In this regard, it is essential to refer to the Parliamentary Ombudsmen (*Riksdagens ombudsmän*) and to the Chancellor of Justice. In addition reference is made below to the Swedish Institute to Combat Corruptive Practices, the Swedish Association of local Authorities, the National Board for Public Procurement and the Swedish National Audit Office.

i) The Parliamentary Ombudsmen

61. The Parliamentary Ombudsmen (hereafter the "PO") is an independent authority established in Sweden in 1810 to undertake the legal supervision of the executive on behalf of the Parliament (the *Riksdag*). In the Instrument of Government, a constitutional law of 1974, this role was confirmed, as the Parliament was given three main functions: legislation, taxation, and control of the executive. The PO carry out part of the third role, supervising all State authorities and all local government authorities as well, including the courts of law and the administrative courts. Nowadays, there are 4 Parliamentary Ombudsmen, so that they can handle the growing workload. They are individually elected by Parliament for 4 years. Traditionally PO are unanimously elected and the appointments are non-political in nature. They may be re-elected, and there is no limitation on total service. They divide their responsibilities into four areas or

branches of the administration: one for the courts of law, the public prosecutors and the police; one for social welfare-, health- and educational sectors and two with more mixed portfolios. The allocation of responsibilities is decided amongst the PO themselves.

62. The PO do not supervise the Government (i.e. Cabinet) or individual Ministers, a responsibility which lies on the Parliamentary Standing Committee on the Constitution. (Neither do they supervise members of the Parliament or members of municipal councils). The financial audit of the PO is carried out by the Parliamentary Auditors.

63. The PO check that the authorities under the supervision apply the laws in a correct way. All Government officials are accountable under criminal law for the way they carry out their powers. There is a law on negligent or abuse of public power; and the PO are empowered to prosecute any official or judge if there is reason to believe s/he acted wrongly when on duty. Such prosecutions are, however, rare - about 5 serious cases a year out of the 5,000 complaints handled by POs.

64. The main role of the PO is to investigate complaints filed by citizens and, in this context, check whether any mistakes have been made, proper routines have been followed, and procedural provisions have been correctly applied. If they have not, the PO are entitled to make non-binding pronouncements (admonitions).

65. Every official knows that he/she is monitored by the Parliamentary Ombudsmen, which has a deterrent effect. Should an ombudsman detect traces of corruption, he would usually hand the case over to the prosecutor, who has more resources to carry out a comprehensive investigation. Rather than corruption, the PO tend to find more cases of negligent use of power.

66. The PO are totally independent from Government. A Parliamentary Ombudsman also enjoys independence in relation to Parliament. Parliament decides on legal provisions, elects them and decides their budget, and receives an annual report from them, but it has no right to intervene in individual cases or give instructions to the PO about what they investigate.

67. A Parliamentary Ombudsman may be dismissed by Parliament during his/her term of office in the event of a loss of confidence but this has never happened in practice. The PO Office is staffed with 50 officials, 30-35 of them being legally trained investigators, appointed by the Institution itself. The budget of the Parliamentary Ombudsmen amounts to about 45 Million SKr, 70% of which allocated to salary costs, and the rest to running costs. They deal with about 5,000 cases per a year, mostly complaints. The right to file complaints is not restricted to Swedish nationals or residents in Sweden. Complaints may be filed in different languages. The PO can also initiate investigations at their own motion (and do so in about 100-150 cases a year), on the basis of findings during inspections of files or reports in the media, or even anonymous complaints if they are very serious and appear well-founded.

68. The complaints should be made in writing. If necessary, however, a member of the staff may help the complainant to word his letter. Each complaint is registered and given a registration number. Everybody can have access to the vast majority of all complaints and PO decisions. The case handlers are young career judges on secondment. About 40% of the complaints are dismissed without further inquiries due to different reasons. A complaint might concern an issue which took place a long time ago (i.e. more than two years after the event complained about) or which does not fall within the PO jurisdiction, e.g. against a minister, a MP, a private lawyer or agent, or against a decision of a court and not about the way in which the decision was reached.

69. Some 30-35% of the cases involve minor investigations in which decisions can be reached quickly. The remaining 25 % of the complaints are investigated in full which means that the PO send the complaint to the relevant authority asking them for an internal investigation and a written statement concerning the case. Decisions are sent to the authority concerned and to the complainant. Although not binding, decisions, which take the form of a recommendation, have, sometimes a wide application, and may even require amendment of legislation, in which case they are also passed to the Ministry of Justice.

70. Only 12-14% of complaints are decided in favour of the complainant; this rate appears to be fairly constant. Sometimes decisions, even though not in favour of the complainant, still contain critical comments. The PO can instigate follow-up investigations, asking authorities to report on measures taken to prevent similar mistakes being made in future.

ii) The Chancellor of Justice

71. The Office of the Chancellor of Justice (hereafter "CoJ") was first appointed in 1713 as a sort of King's Ombudsman, to oversee judges and Ministers, to ensure that laws were correctly applied and administrative functions performed efficiently during the periods in which the King was absent overseas. It thus has a very similar role to the Office of the Parliamentary Ombudsmen.

72. The holder of the CoJ will be a person who is impartial, trained in law and with experience as a judge. S/He exercises supervision over the administration of justice and can take action against judges or officials for breach of duty. The CoJ is appointed by the Government for an unlimited period of time until retirement. His/her mandate cannot be changed. S/he cannot be dismissed by Government and will serve under any Government, as it is not a political appointment. S/he can therefore carry out his/her duties in a completely independent way. The CoJ has the same powers as the PO, to prosecute officials or judges having acted wrongfully.

73. The CoJ's Office is staffed with 10 lawyers, 5 of which appointed by the CoJ among associate judges with appropriate experience, four senior lawyers as well as a law clerk often from the Ministry of Justice or elsewhere, appointed by the Government.

74. The CoJ's main role in relation to the prevention of corruption is that of supervising the functioning of the administration, covering all governmental and municipal authorities and their employees, and designed to ensure that those involved in public activities comply with the law. CoJ office deals with about 900 cases a year, resulting from complaints filed by members of the public or from inspections made ex officio. Like the PO, CoJ decisions are non-binding recommendations, but they can and do often include recommendations for changes in the law.

iii) Swedish Institute to Combat Corruptive Practices

75. The Institute was founded in 1923 to promote good practice designed to combat corruption in business. Its main role is to provide advice to businesses in the private sector but it also gives advice to the media and to public authorities, and even the Courts, on the interpretation of Swedish laws on corruption. It has organised seminars for businesses on the appropriate level of gifts, and has commented on draft legislation and made proposals for improvements of the law. It is independent, and has delivered opinions spontaneously when it thought they were warranted, for example on bonuses in frequent flier schemes and offered its reactions on the payments by drugs companies to medical experts in cases where drug licences were being sought.

76. Representatives of the Institute informed the GET that major corruption cases were rare in Sweden, but they thought that there were sectors more vulnerable to corruption than others, such as the building industry. They also pointed out to the risks inherent to large organisations, where decision-making powers are delegated to lower levels, thereby increasing the risk of small-scale corruption.

77. The Institute drew to GET's attention the Marketing Practices Act 1970, updated in 1995, which was designed to curb marketing practices which were contrary to business morals. Under that Act the Market Court could give an injunction to prohibit actions, or impose a fine. This has been used, for example, to curb marketing promotions. It was also possible to take action under the Act against legal persons. Those few cases examined so far by the Market Court attracted widespread publicity and had a powerful effect in the business community.

78. The Institute has drawn up a Code on "The Use of Benefits to Promote Business Contacts and Relationships" designed to promote high standards of integrity in business transactions, whether in the public or private sector, by drawing a clear line between ethically acceptable practices, and those likely to be corrupt. These were naturally very important in the private sector, but even more so in the public sector where corruption, even on a minor scale, was seen as an immediate threat to democracy.

79. The Institute, alongside with other bodies visited, emphasised the role of the media as a watchdog of public ethics and in reporting and raising awareness on corrupt practices.

iv) Swedish Association of Local Authorities

80. Local authorities (basically the County Councils and the Municipalities) are independent of central Government, funded partly from local taxes and partly from State grants. They are responsible for a number of essential public services, such as schooling, childcare amenities, and caring services for the elderly, and also basic services, and public health and medical services.

81. Each Council has a number of specialist committees undertaking a variety of responsibilities, and they all have their own auditing section, appointed by the Council. Committees are headed by elected local politicians, and staffed with public officials. They rely also on the openness of all of their actions and documentation to provide a further check on their activities.

82. There is a law governing local authorities, and a code of conduct specifying, *inter alia*, what gifts may be received, and the need to declare economic interests where there might be a potential conflict. The elected members of the Council have a further control in that they answer to the electorate. They can also be charged for misuse of office when acting on the committees. Moreover the press is a permanent watchdog, reporting any suspected improper behaviour.

v) The National Board for Public Procurement

83. The National Board for Public Procurement (hereafter the "NBPP") is, in Sweden, a monitoring/ supervising Authority for approximately 10,000 procuring entities, including central, regional and local Authorities but also private associations within the utilities sector that handle public procurement in Sweden. The Swedish Public Procurement legislation is harmonised with the European *Acquis Communautaire* and the role of this Agency is to oversee the authorities' compliance with it.

84. In Sweden there are two ways of challenging public tender procedures and decisions. The first one is to appeal to the Administrative Court. Only a supplier can complain and if the procedure has not been completed and the contract signed, the Court can decide that the procedure will be stopped and a new proper procedure started. The Court can also suspend the procedure and oblige the procuring entity to correct measures that are not in compliance with the Public Procurement Law. After the contracting Authority has signed the contract the only available remedy for a supplier is to go to Court and ask for damages if the law on procurement has not been followed. Since 1994 approximately 200-250 cases in total have been brought before the Administrative Courts and about 30 cases for damages before the Civil Courts.

85. The second one is to submit a complaint to the NBPP. It employs 10 persons and has a Board of experts (from the Central, Regional, Local Authorities and the industry). The Chairperson is the head of the division in the Administrative Court of Appeal. It gives particular importance to the dissemination of information and has a home page and a newspaper with 4 issues per year containing analysis and interpretations of Swedish and European legislation. The NBPP receives about 200 written complaints per year usually from suppliers. The Board examines the complaints and delivers an opinion. In a majority of cases, the concerned Authorities follow the opinion although they are not bound to do so.

86. No cases of corruption as such have so far been detected by the NBPP, although officials involved in public procurement are viewed as a high-risk group. In case of a conflict of interest, the only protection from abuse is to be found in a section in the Swedish law, which requires officials involved in procurement to act objectively. The GET was told that this would be interpreted by the Swedish Courts as meaning that a conflict of interest has to be declared.

87. Although the bulk of the NBPP's work results from the examination of complaints, ex officio proceedings may also be initiated on the basis, for instance, of newspaper reports. The office has not so far conducted on the spot visits although it would have to authority to do so.

88. The NBPP has established a close co-operation with the National Audit Office, which contributes to the investigation of complaints. However, the National Audit Office will not participate in the examination of complaints directed against Local Authorities, which have their own audit units. In view of the large number of local and regional auditing authorities the NBPP is unable to maintain the same level of co-operation with them, which results, the GET was told, into a less effective control over local authorities.

89. According to the information provided to the GET, the EC Directives on public procurement apply to only about 10%-20% of the procurement that is done nationwide. The remaining 80%-90% of the procurement is below the threshold established by EC Law. This procurement is also regulated in the Swedish Public Procurement Law, which applies to all purchases except to those of "low value" (this is generally interpreted as meaning below approximately 11,000 €).

90. Moreover it seems that in a significant number of cases procurement legislation is not followed and authorities address themselves directly to a supplier. According to an inquiry quoted by the NBPP, 25-40% of Municipalities do not fully comply with public tendering procedures, including cases where public tenders are not used when they should. Government Agencies have a better performance.

91. As the Law stands today there are no repercussions for an authority, which has procured goods without a tender procedure. The NBPP sees this as a serious loophole in the Law. A Bill is under consideration providing for fines to be imposed on authorities found in breach of procurement legislation.

92. The GET heard allegations that the NBPP lacked the human resources to be able to function effectively.

93. According to its own interpretation of the Law, the NBPP is entitled to supervise Ministries, Government owned companies, regional Authorities, Municipalities, in their capacity as contracting agencies. However, some Agencies dispute their qualification as contracting authorities bound by the law on public procurement. The Agency lacks any powers in such a case and proposes to be empowered to take the decision in this respect.

94. Moreover, Local and Regional Authorities choose the members of their respective tendering boards. The GET was made aware of the existence of an attitude among certain public officials who view the Rules on Procurement as a hindrance to the performance of their functions and who consider that no time should be wasted with cumbersome procurement procedures.

95. According to an opinion expressed before the GET, the fact that no corruption cases have been revealed could be the consequence of inappropriate supervision procedures, which rely almost exclusively on document examination without digging into the reality behind them. Concrete corrupt practices would thus remain largely unnoticed behind the scenes. More job rotation of employees who handle procurement would be necessary, according to the Office. The GET was also told that companies feel that they will be black listed if they take court action.

vi) Swedish National Audit Office

96. The Swedish National Auditing Office is an independent institution responsible for auditing all central government agencies and public enterprises as well as state-owned companies to ensure that their financial management is proper and efficient. It is completely independent and free to conduct in depth investigations wherever it sees fit.

97. It has a staff of 135 auditors who look into financial management issues (all qualified accountants) and 80 others who carry out performance audits into efficiency and value for money (not necessarily qualifies accountants, but appropriately-skilled economists and business administrators). The Auditor General is appointed by the Government for a six-year period, which can be extended by three years. The Auditor General is responsible for the appointment of his or her staff.

98. The Office audits annually 500 entities and about 1,500 state-owned companies and foundations. This covers about 99% of state-funded entities, including those that receive EU funding.

99. In the spring of each year the Office presents the results of its audit of each entity. The Office also presents during a year the results of about 20-25 performance audits on diverse subjects, for instance road management, procurement, etc. A summary of all the findings is produced in an annual report each June, which includes the Office's conclusions and improvement recommendations to the Government and Parliament.

100. The Government may request the Office to examine certain problem areas. However, no direct instructions can be given to the Office and its audits cannot be subject to any interference.

101. Although the fight against corruption is not included in its mission statement, the staff of the Office might discover corrupt practices in the course of their work. If they become suspicious of illegal activities, they are authorised to pass the information on to the law enforcement agencies. The Office does not have the authority to audit municipalities or local authorities, except when it follows-up government grants.

102. When the Office first reports on a situation to the competent Ministry, it gives the Director General one month in which to respond whether s/he agrees with the Office's findings, and if so, what measures his/her department intends to take to remedy the situation. Parliament keeps a close watch on the ministries. 95-98% of the Audit Office's findings are acted upon within one year.

103. When carrying out an audit the Office examines whether the law has been complied with. However, its power is not confined to examining the propriety of the expenditure. It can also assess effectiveness by checking whether an entity received "the best value for its money". For example, the Office has criticised certain agencies for ordering their supplies in-house when they could have obtained a better price through outside procurement. However, external procurement has not escaped the Office's attention either. The Defence Minister commissioned the National Audit Office, for example, to prepare a special report for the Government on the procurement of a fighter plane.

104. All major State Agencies have their own internal control divisions, which act independently and report directly to each organisation's Board.

105. Following a scandal reported in the media, the Audit Office made a special report on entertainment allowances. Having looked at the systems put in place by 100 different agencies to govern spending on entertainment, the Office made a critical report identifying flaws in the internal regulations and containing ten recommendations for improvements in the relevant procedures.

106. According to the Audit Office, internal controls were strengthened by the fact that anyone could have access to the relevant information and request details on each expenditure item. This had a desirable deterrent effect, since it increased the risk of detection of impropriety.

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

107. The following categories of persons benefit in the Swedish legal system from immunities in criminal proceedings:

- the Sovereign;
- the Regents;
- the Members of Parliament;
- the Ministers and
- the judges.

108. According to the constitution, the Sovereign, being the Head of the State, cannot be prosecuted; a Regent cannot be prosecuted for acts done in his/her capacity as Head of State. Members of parliament and former Members of Parliament enjoy immunity from prosecution for their statements or deeds in the exercise of their duties. This immunity can only be lifted by the Parliament with a five-sixths majority. If a Member of Parliament is suspected of an offence that is

not connected to the exercise of his/her duties, s/he may be made subject to coercive measures only if s/he pleads guilty, if s/he has been caught re-handed or if the offence in question is punished with at least two years' imprisonment.

109. A Minister or former Minister cannot be indicted for offences committed in the exercise of his/her duties unless s/he has shown gross negligence. In this case, it is the Standing Parliamentary Committee on the Constitution which decides on his/her indictment and s/he is tried by the Supreme Court. Of course, the immunity does not cover offences that are not related to the exercise of one's duties.

110. It is the Chancellor of Justice or the Parliamentary Ombudsmen who may indict a judge of the Supreme Court or the Supreme Administrative Court for an offence committed in the exercise of his/her duties. In these circumstances, it is the Supreme Court that has jurisdiction to try the offence. This special procedure does not apply to crimes not connected with the exercise of the above-mentioned judges' duties. There is no special procedure for the indictment and trial of the remaining judges.

III. ANALYSIS

a. General policy on corruption

111. There is a general feeling, expressed by the representatives of all the institutions visited by the GET, that there is little large-scale corruption in Sweden. A few instances of minor corruption were mentioned, most of which appear to have been detected by investigative journalists, reported in the press and then followed-up by the competent law-enforcement agencies.

112. In Sweden there exist important institutional safeguards against corruption in the form of a number of agencies, which complement each other. However, the most important weapon against corruption is probably openness and the public's access to information. This provides the public and the media with the means to control public-sector activities. Supervision by the public and the press is then reinforced by institutions such as the Chancellor of Justice and the Parliamentary Ombudsmen, who can investigate any complaint about the executive, as well as the National Audit Office, which controls all Government-funded agencies and state-owned companies. All three institutions are completely independent and are, therefore, free to criticise the executive, if appropriate, and to make recommendations for improvements in the control exercised and the relevant procedures.

113. Since this framework has been in place for a very long time, there exists an established culture of openness and supervision of public servants, which ensures that laws are generally complied with and which has contributed to the low incidence of corruption in Sweden.

114. The Swedish Institute for Combating Corrupt Practices provides advice spontaneously to the private sector, the courts and the public. The Market Court is also a valuable means for curbing some abuses since it provides a civil remedy for combating distortions in competition.

115. In spite of this overall positive assessment about the capacity of the Swedish system to prevent and react against corruption, the GET was able to identify a number of weaknesses, which are detailed below.

116. The GET observed that the reduced number of corruption cases and the high confidence placed by Swedish society in the ethical behaviour of authorities and officials, could result in low awareness of the danger of corruption, reducing the number of reports related to suspicions of corrupt acts and preventing law enforcement agencies or supervisory bodies from actively seeking traces of corrupt practices.

117. The GET recalled the difficulty to detect corruption because this form of criminality is, by definition, a very secret and silent one. The reporting of an offence can hardly come from the victim because often there is no individually identifiable victim or because those having specifically suffered damage are likely to ignore the existence of underlying corruption. On the other hand, none of the persons involved in a pact of corruption have the slightest interest in revealing it as they would be in danger of prosecution and punishment.

118. The low awareness and the absence of specific guidelines or training on corruption issues among officials in certain key areas may hamper the reporting of suspicions of corruption, leaving complex and sophisticated corrupt practices undetected, particularly those used in the context of certain international business transactions. Even if Sweden feels relatively immune to corruption, its full integration in the international economy could easily entail the risk of exposure to corrupt practices coming from abroad.

119. Therefore, the GET recommended to raise the awareness of public officials, particularly those more likely to be in contact with corrupt practices, about the need to remain vigilant, to report suspicions of corruption in accordance with agreed procedures and to contribute to the efforts of law enforcement authorities aimed at the detection of corruption offences.

120. The GET further recommended organising a system for exchanging knowledge and experience about corruption phenomena in Sweden, involving the Prosecutor General's Office, the Police, the State Auditor's Office, the auditors of local authorities, public procurement services and tax authorities. Such a system could assist in identifying procedures and activities most vulnerable to corruption, criteria to detect corrupt practices and preventive measures.

b. Investigation and prosecution of corruption

121. The GET noted that in recent years serious corruption cases have been handled by the Unit for Special Crime in the Public Prosecution Service, composed by a few senior and experienced prosecutors and police officers. However, this unit also deals with other types of "special" crimes and was not viewed by the GET as a specialised anti-corruption unit. In addition, the Economic Crimes Bureau ("ECB"), had been recently established as a response to criticisms pointing out to the slowness and lack of results of financial investigations. The GET noted with interest that the ECB, which concentrates in one body the competence and knowledge necessary for combating complex forms of economic criminality, increased the effectiveness of Sweden's response against this form of criminality. However, the GET observed that ECB rarely dealt with corruption cases.

122. The GET was aware that the limited extent of corruption phenomena in Sweden would hardly justify the setting up of complex and costly new special anti-corruption structures. The GET recalled, however, that without bodies or persons equipped with sufficient knowledge, training and expertise, there could be no efficient protection of society against this dangerous and hidden form of crime. It further recalled that the experience in other countries had shown that this type of criminality is likely to remain undetected unless a deliberate effort is made to look for suspicious acts connected with it.

123. The GET noticed that, due to a lack of sufficient evidence, no charges had been brought in any of the recent important corruption cases that had made the headlines in Sweden. Moreover, the GET heard that inappropriate supervision in public procurement procedures could have resulted in leaving undetected some concrete corrupt practices.

124. In this context, the GET recommended to identify in an existing multidisciplinary structure – the Unit for Special Crime, the ECB or other – one or several prosecutors, police officers and officials who will be responsible for dealing specifically with the detection, investigation and prosecution of serious corruption cases. These specialised staff should receive appropriate training - in particular on the typologies of corruption, including its international dimension - and gather knowledge and experience in dealing with this type of offences. They should also be in a position to exploit available information from different sources that could lead to the detection and gathering of evidence of corruption offences.

125. The GET observed that the Swedish system is well organised and equipped to handle corruption cases when a corrupt behaviour is disclosed or reported. However, because of the level of the penalties for corruption, law enforcement agencies are precluded from making use of certain special means of investigation, in corruption cases. These measures are reserved in the Swedish legal system, for the investigation of more "serious offences". The GET is readily admitted that it is for each individual GRECO member to define, in its domestic legal system, which measures should be legally admissible for the detection and investigation of criminal offences. It recalled, however, that the detection and investigation of corruption, by definition a very secretive and hidden form of criminality, involve many difficulties and could be seriously hindered if the authorities are deprived of "effective means for gathering evidence". It would be reasonable to think that more corrupt activities would come to the surface if law-enforcement authorities were able to make use of more powerful means of investigation, particularly when those means are already available in the Swedish legal system for the investigation of other serious offences. Excluding their use altogether in the investigation of serious corruption cases sends, in the GET's view, a wrong signal about the importance of an efficient reaction against corruption, an offence which endangers values and principles of a democratic society.

126. Therefore the GET recommended to extend, as far as possible, the use of special investigative means to cases of aggravated bribery, keeping in mind, of course, the low level of corruption in Sweden and the need to respect the principle of proportionality and existing constitutional and legal safeguards.

c. Public procurement

127. As regards public procurement, the GET took note of the claim of the National Board for Public Procurement (hereafter the "NBPP") to have more resources to fulfil its tasks. Although Swedish legislation provides already for some remedies – such as claims for damages and new procedure – the NBPP would need to improve the effectiveness of the measures it can take against those who ignore tender procedures altogether and deal directly with suppliers. The GET observed that according to inquiries referred to by the NBPP, tendering procedures are often ignored, in part or in full, by local authorities in particular and in relation to smaller contracts. The GET noted with satisfaction that consideration was being given to the possibility of imposing a fine on purchasers who ignore procurement procedures and address themselves to the supplier of their choice.

128. Therefore the GET recommended to improve, within the framework of the available resources, the functioning of the NBPP enabling it to fulfil its important tasks in a more efficient manner. It also recommended to examine ways of improving the effectiveness of sanctions for non-compliance with applicable public tendering procedures.

129. Experience in most countries shows that the risk of corruption is inherent to situations where close personal relationships exist between suppliers and purchasers, who might end up neglecting other possibilities and viewing tendering rules as an obstacle to good business. Some safeguards already exist in Sweden. Besides, by virtue of the traditional openness of the Swedish administration there might be media reports on some cases. However, as both sides to the corrupt pact share an interest in concealment, many cases are likely to remain undetected. Therefore the GET recommended that measures be taken to minimise the risks of an excessive familiarity between officials and suppliers, leading to direct orders being placed without applying tendering procedures, such as, for instance, collective decision-making procedures, rotation of officials deciding on purchases, specific supervision of contracts concluded directly etc.

130. As regards local authorities, the GET observed that auditors were headed by a member of the City Council and staffed by employees of the Council. Although local politicians are accountable to the local electorate, and access to information could allow journalists to unearth abuses, these safeguards seemed to the GET less stringent than desirable.

131. The GET recommended improving the monitoring/supervisory system applicable to local authorities by ensuring efficient and independent auditing of local authorities.

d. Immunities

132. Regarding the system of immunities, the GET noted that Members of Parliament ("MPs") and former MPs enjoy immunity from prosecution for deeds in the exercise of their duties, immunity which can only be lifted through a very high majority vote in Parliament. Moreover, a Minister or a former Minister cannot be indicted in Sweden for offences committed in the exercise of his/her duties unless s/he has shown gross negligence. Ministers or former Ministers can only be indicted by the Standing Parliamentary Committee on the Constitution. The GET observed that, had corruption been considered as a deed committed in the exercise of official duties, the rules on immunity would have constituted an insurmountable obstacle to the prosecution and punishment of a corrupt MP or Minister.

133. However, the GET was pleased to note that the expression "committed in the exercise of his or her duties" can in no case be understood, according to the general interpretation of the provisions referred to above, as including acts of bribery committed by an MP or a member of the Government. Therefore, no MP or member of Government could allege his/her immunity as a defence against investigations or accusations of corruption. Consequently, the prosecutor in charge of any such a case would be in a position to investigate and press charges against a corrupt MP or Minister without requesting the lifting of his/her immunity. The GET was able to confirm that in a recent case of alleged corruption by a Minister the prosecutor in charge had been able to conduct the investigation without any restrictions deriving from immunity rules and without requesting the lifting of the Minister's immunity.

134. Therefore the GET concluded that the immunity system in Sweden was compatible with the undertaking to limit immunities to the degree necessary in a democratic society, as it appears in GPC 6.

IV. CONCLUSIONS

135. As other Scandinavian countries, Sweden is almost corruption-free. A few cases of corruption have been reported and detected in Sweden over the past years. Among representatives of both State agencies and civil society, there is a strong perception of a very low level of corruption. Swedish people consider corruption as almost non-existent and, therefore, as not being a major concern for Swedish society. This general situation explains why corruption is not considered as a priority at political and governmental level: no specific plans to detect and combat it exist, nor is there any intention to establish such plans in the near future. This situation must be contrasted to that concerning the fight against economic crime. Bankruptcy and tax fraud are, more especially, a major priority of the Swedish Government: in 1998 the Economic Crimes Bureau was set up, which is an excellent example of how prosecutors, police officers and experts - highly specialised and trained in combating economic and financial crimes - can work together.

136. By creating the Parliamentary Ombudsmen and the Chancellor of Justice, respectively in 1810 and 1723, and more recently other institutions such as the Swedish Institute to Combat Corrupt Practices or the National Board for Public Procurement, Sweden has established a culture of openness and supervision of public servants, which can be considered nowadays as a traditional aspect of Swedish society. All those institutions, together with some others, play an extraordinary supervisory role, ensuring that public authorities and all individual civil servants and public employees strictly comply with the laws and regulations and do their work properly and that citizens are treated correctly. Another reason that can explain why corruption is not a very widespread phenomenon in Sweden is the traditional freedom of public access to official documents that exists since the beginning of the XVIII century. In Sweden, this is probably the most effective tool in the prevention of corruption. Journalists, NGOs and private persons are very eager to use this tool in order to keep the public authorities and opinion informed about corruption cases.

137. Despite this favourable situation, the GET has identified a few areas where improvements would seem to be necessary. First of all, no institutions, units, police officers or prosecutors entirely specialised in the detection, investigation and prosecution of corruption cases exist. Public officials, particularly in vulnerable sectors, are not made specifically aware of the need to report suspicions of corruption. Some special investigative means cannot be used in the detection and investigation of serious corruption offences. No special training is proposed to the police or the prosecution services and no systematic training is organised on corruption typologies. There is no suggestion, of course, that the police and prosecutors are not prepared to detect and investigate crimes in general, including ordinary corruption offences. However, corruption is a secret and complex offence, difficult to detect, investigate and prove. The investigation of this sophisticated form of criminality often requires special knowledge, experience and training. In this context a basically reactive system like the Swedish one may experience difficulties to unveil hidden certain corrupt practices. Also, the GET found that public procurement procedures are often not respected as prescribed by law. Thus, there exists in Sweden a risk of development of corrupt practices - in particular at local level and in relation to smaller contracts - due to the fact that close personal relationships between suppliers and purchasers could lead to direct orders being placed without applying tendering procedures. Finally, the GET noticed that the audit procedures applicable to local authorities deserved to be improved.

138. In view of the above, the GRECO addressed the following recommendations to Sweden:

i. raising the awareness of public officials, particularly those more likely to be in contact with corrupt practices, about the need to remain vigilant, to report suspicions of corruption in accordance with agreed procedures and to contribute to the efforts of law enforcement authorities aimed at the detection of corruption offences;

ii. identifying in an existing multidisciplinary structure – the Unit for Special Crime, the ECB or other – one or several prosecutors, police officers and other specialised officials who will be responsible for dealing specifically with the detection, investigation and prosecution of serious corruption cases. This structure should also be in a position to exploit available information from different sources that could lead to the detection and gathering of evidence of corruption offences;

iii. organising appropriate training - in particular on the typologies of corruption, including its international dimension - for police officers and prosecutors dealing with corruption and connected offences;

iv. organising a system for exchanging knowledge and experience about corruption phenomena in Sweden, involving the Prosecutor General's Office, the Police, the State Auditor's Office, the auditors of local authorities, public procurement services and tax authorities. Such a system could assist in identifying procedures and activities most vulnerable to corruption, criteria to detect corrupt practices and preventive measures;

v. extending, as far as possible, the use of special investigative means to cases of aggravated bribery, keeping in mind, the low level of corruption in Sweden and the need to respect the principle of proportionality and existing constitutional and legal safeguards;

vi. improving, within the framework of available resources, the functioning of the National Board for Public Procurement enabling it to fulfil its important tasks in a more efficient manner. It also recommended to examine ways of improving the effectiveness of sanctions for non-compliance with applicable public tendering procedures;

vii. taking measures to minimise the risks of an excessive familiarity between officials and suppliers, leading to direct orders being placed without applying tendering procedures, such as, for instance, collective decision-making procedures, rotation of officials deciding on purchases, specific supervision of contracts concluded directly etc;

viii. improving the monitoring/supervisory system applicable to local authorities by ensuring efficient and independent auditing of local authorities.

139. Moreover, the GRECO invites the authorities of Sweden to take account of the observations made by the experts in the analytical part of this report.

140. Finally, in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of Sweden to present a report on the implementation of the above-mentioned recommendations before 31 December 2002.

Appendix I

The Swedish Penal Code

Chapter 17

On Crimes against Public Activity

Section 7

A person who gives, promises or offers a bribe or other improper reward to an employee or other person defined in Chapter 20, Section 2, for the exercise of official duties, shall be sentenced for *bribery* to a fine or imprisonment for not more then two years. (Law 1977:103)

Chapter 20

On Misuse of Office, etc.

Section 2

An employee who receives, accepts a promise of or demands a bribe or other improper reward for the performance of his duties, shall be sentenced for taking a bribe to a fine or imprisonment for not more than two years. The same shall apply if the employee committed the act before obtaining the post or after leaving it. If the crime constitutes a serious offence, it shall be punished by imprisonment of no less than six months and a maximum of six years.

The provisions of the first paragraph in respect of an employee shall also apply to:

1. a member of a directorate, administration, board, committee or other such agency belonging to the State, a municipality, county council, association of local authorities, parish, religious society, or social insurance office,

2. a person who exercises a assignment regulated by statute,

3. a member of the armed forces under the Act on Disciplinary Offences by Members of the Armed Forces, etc. (1968:644), or other person performing an official duty prescribed by Law,

4. a person who, without holding an appointment or assignment as aforesaid, exercises public authority, and

5. a person who, in a case other than stated in points 1-4, by reason of a position of trust has been given the task of managing another's legal or financial affairs or independently handling an assignment requiring qualified technical knowledge or exercising supervision over the management of such affairs or assignment. (Law 1993:207)