

Strasbourg, 9 September 2015

Greco (2015) 10E

68th GRECO Plenary Meeting
(Strasbourg, 15-19 June 2015)

SUMMARY REPORT

I. Opening of the meeting

1. The 68th Plenary Meeting was chaired by Mr Marin MRČELA, President of GRECO (Croatia) who opened the meeting by welcoming all participants, referring in particular to newly nominated representatives.
2. The list of participants appears in Appendix I.

II. Adoption of the Agenda

3. The agenda was adopted as it appears in Appendix II.

III. Information Items

The President

4. The President informed the Plenary of his *speaking engagements* to present GRECO good practices:
 - “A future without corruption – one vision, multiple strategies” conference to be held by the Organising Committee of the 6th Symposium of the Independent Commission Against Corruption (ICAC) of Hong Kong (Hong Kong, 11-13 May 2015) – some 500 participants from 60 countries + World Bank, World Economic Forum, OLAF, International Anti-corruption Academy, UNODC; as follow-up the Bureau has decided to invite the ICAC (1,300 employees for a population of 7 million people and extensive financial resources) to present its activities to GRECO;
 - Multi-country workshop on the fight against corruption (Skopje, 22-23 April) organised by the Academy for Judges and Public Prosecutors “Pavel Shatev” and the Technical Assistance and Information Exchange instrument of the European Commission (TAIEX);
 - Meeting on the Effectiveness of Corruption Prevention Measures (Zagreb, 18-19 May) organised by OECD/ACN, RAI and RACVIAC – gathering participants from 15 countries;
 - A regional seminar on Standards for corruption prevention in respect of judges and prosecutors (Cavtat, 20-21 May) organised by the Judicial Academy of Croatia, gathering most of the countries of former Yugoslavia;
 - Meeting of the State Attorneys of Slovenia (Bohinj, 10-11 June 2015)
 - Exchange of views with the Committee of Ministers to present GRECO’s General Activity Report for 2014 (Strasbourg, 17 June) – see Appendix III).
5. The ***Additional Protocol to the Criminal Law Convention on Corruption*** (ETS 191) has entered into force in respect of Andorra, Hungary and Turkey and will enter into force in respect of Portugal on 1 July 2015, bringing the total number of parties to the treaty to forty-one.
6. Copies were made available to the plenary of comments made by the Bureau of the Consultative Council of European Judges (CCJE) on correspondence sent to the Council of Europe and the CCJE by various judges and international, European and national associations of judges concerning, inter alia, the suspension and arrest of two judges in Turkey. See in this connection section X of this report.
7. Delegations were asked to refer to the information presented in the report of the ***72nd Meeting of the Bureau*** (Greco (2015) 7E). The President wished in particular to draw GRECO’s attention to the Bureau’s concern that member States are in some cases delaying the ***publication of adopted reports***. In the exceptional case of Belarus no authorisation has so far been given. The Bureau is in favour of looking into changing GRECO’s Rules of Procedure in order to provide for “automatic” publication of

reports once a set period has elapsed after adoption (6 to 8 weeks) and will resume its discussion on this matter at its next meeting.

8. The Bureau has given some thought to how to make the best use of opportunities for exchanges with *external interlocutors*. It is of the opinion that it is of particular importance to invite external interlocutors at the opening of a new evaluation round to benefit from additional expertise in the themes to be reviewed, but that such exchanges can also be organised in the course of its work programme on issues of topical interest. The Bureau also supports the idea of GRECO possibly holding a *closing event at the end of the Fourth Evaluation Round* in cooperation with external experts.

9. The Bureau acknowledges the contribution external initiatives make to *promoting follow-up and supporting the implementation of GRECO's recommendations* – reference was made, *inter alia*, to the Cavcat seminar referred to by the President and to the seminars organised by International IDEA in 2013 and 2015 on GRECO's political financing recommendations to the Nordic States as fruitful examples that can serve as models. Further use could be made of such activities, it being understood that they are not a substitute for the "technical co-operation" activities that are managed by a dedicated Council of Europe department.

10. No issues were raised by the plenary with respect to the above points.

The Executive Secretary

11. The Executive Secretary warmly thanked the Office of the General Prosecutor of Croatia for organising and hosting the Bureau's last meeting in Zagreb and GRECO's President for the initiative.

12. In recent weeks, GRECO's Secretariat has received an unprecedented quantity of correspondence concerning research on corruption and GRECO's work and modus operandi – for example, an international comparative research project dealing with the political authority and impact of peer reviews among States, conducted by Maastricht University (representatives of the university were present outside the meeting room and invited GRECO representatives to participate in interviews in that context). Mr Aram Khaghaghordyan, a PhD student – who had previously presented to GRECO research funded by the European Commission and carried out by the European Research Centre for Anti-Corruption and State-Building (ERCAS) at the Hertie School of Governance (Anticorruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption) – is drawing up a study based on an analysis of 435 GRECO compliance reports and intends to develop a compliance score in that context. Other research projects brought to the attention of the Secretariat include studies on whistleblowers, identifying the political conditions that are favourable to the elaboration of anti-corruption strategies, and EU accession to GRECO.

13. In correspondence with the Secretary General of the Council of Europe, the President of Italy is very complimentary about the effective action of GRECO and how useful it is for the country's anti-corruption policies and emphasises the fact that Italy is supportive of EU accession to GRECO. In his response, the Secretary General stresses how welcome that sort of support for the work of the Council of Europe is.

14. The Secretary General has had a meeting with the International Olympic Committee (IOC). The IOC expressed its interest in GRECO's work and indicated that it would approach GRECO to see if any joint action is feasible.

15. Cooperation between GRECO and the International Institute for Democracy and Electoral Assistance (International IDEA) has been fruitful since representatives of this international intergovernmental organisation with its headquarters in Stockholm first presented to the plenary its work, in particular the Political Finance Database (www.idea.int/political-finance) which is a source of global

comparative information on political finance regulations. The organisation is also dealing with a number of issues GRECO is looking into in its Fourth Evaluation Round – ethics in parliament for example and is also preparing a study on the state of local democracy. GRECO's President will participate as a speaker in a Global Conference on Money in Politics organised jointly by the Electoral Tribunal of the Federal Judiciary of Mexico and International IDEA in cooperation with the National Electoral Institute and the OECD that will be held in Mexico on 3-5 September 2015. During the conference, the Secretariat and a GRECO expert will hold a side event – a workshop on political funding and there will probably be some follow-up activities in future.

16. **GRECO's Budget** for the biennium 2016-2017 will benefit from a decision by Turkey to become a major contributor to the budgets of the Organisation which will bring a welcome increase to GRECO's budget (in the range of 10%). These exceptional circumstances will give GRECO an opportunity to reinforce some of its activities. The Executive Secretary indicated that some investment would have to go into better publicising GRECO's work internationally and within individual member States once a report has been published, as well as other activities that could be termed "implementation support". Some focus could also usefully be placed, for example, on good practices and horizontal work. The Secretariat, which has no capacity for managing additional activities at present, will also need to be reinforced.

17. The Council of Europe is moving towards managing the reimbursement of travel and subsistence expenses solely through bank transfers due to the administrative burden of facilitating cash reimbursements which is untenable when economies need to be made (some 400 on the spot reimbursements had been processed in the week of the present plenary meeting). Delegations were advised to be prepared for a suspension of cash reimbursements and to already opt for reimbursement by bank transfer for the next plenary meeting.

18. No issues were raised by the plenary with respect to the above points.

IV. Fourth Evaluation Round

Prevention of corruption in respect of members of parliament, judges and prosecutors

Evaluation procedures

19. The delegations of all GRECO member States that make up the Plenary review the draft evaluation reports in a first reading that involves the participation of a delegation from the country concerned and the Evaluation Teams that carried out the on-site evaluation visits and contributed to the drawing up of the draft report. A second reading of revisions made in light of the first is carried out before the formal adoption of the texts.

20. GRECO adopted Fourth Round Evaluation Reports – including formal recommendations – on **Greece** (Greco Eval IV Rep (2014) 9E – publication pending), **Montenegro** (Greco Eval IV Rep (2014) 6E – published on 26 August 2015) and **Serbia** (Greco Eval IV Rep (2014) 8E – published on 2 July 2015). The deadline of 31 December 2016 was set for the submission of Situation Reports on measures taken to implement the recommendations in all three cases.

Compliance procedure

21. In its compliance reports, GRECO pronounces itself on the level of compliance of member States with its recommendations. A Situation Report submitted by the authorities of a member State provides the basis for the assessments made. Rapporteurs designated by other member States are associated with the preparation of the draft reports tabled.

22. The Fourth Round Compliance Report on **Luxembourg** (Greco RC-IV (2015) 5E – published on 1 July 2015) was adopted and the deadline of 31 December 2016 was set for the submission of a Situation Report on further measures taken to implement the recommendations.

Rule 32 procedure – non-compliance

23. In the Fourth Round Compliance Report on the **Netherlands** (Greco RC-IV (2015) 6E – published on 26 August 2015) GRECO concluded that the level of compliance with its recommendations was “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. Rule 32 is therefore applied and, pursuant to paragraph 2(i) of that rule, the authorities of the Netherlands have been asked to provide a report on progress in implementing the recommendations by 31 December 2015 at the latest.

Work programme - 2015

24. GRECO’s provisional plenary agendas are often unfeasible (e.g. 16 potential reports for adoption in December) due to the number of *interim* compliance reports generated by non-compliance procedures – where more frequent reporting is required – that need to be added in the course of the year. Adoption of those reports is given priority.

25. GRECO noted at the present meeting that in such cases a certain number of Fourth Round Compliance Reports will need to be examined after the statutory deadlines. When that need arises, the Secretariat will inform the delegations concerned and the deadline for submission of the situation reports will be extended.

26. In the present case, the Fourth Round Compliance Reports on France, Spain and “the former Yugoslav Republic of Macedonia” have been re-scheduled for adoption in March 2016 and the deadline for submission of the situation reports is extended to 30 September 2015.

Work programme - 2016

27. GRECO noted that a last series of Fourth Round evaluations (on-site visits) will take place in 2016. The countries concerned, in the order in which they would normally be evaluated (i.e. chronological order of the previous round) are Andorra, Georgia, Ukraine, United States of America, Switzerland, Austria, Monaco, Italy and the Russian Federation. Fourth Round evaluation of GRECO’s most recent members – Liechtenstein, San Marino and Belarus – will only be possible at a later stage as they have not yet undergone evaluation in the Third Round.

V. Third Evaluation Round

Theme I “Incriminations” / Theme II “Transparency of party funding”

Compliance procedures

28. The 2nd Third Round Compliance Report on **Georgia** (Greco RC-III (2015) 4E – published on 11 August 2015) was adopted and, in accordance with Rule 31, paragraph 9 of the Rules of Procedure, the authorities of Georgia have been asked to provide additional information regarding the implementation of certain recommendations by 31 March 2016.

Rule 32 procedures – non-compliance

29. In its 2nd *Interim* Third Round Compliance Reports on **Bosnia and Herzegovina** (Greco RC-III (2015) 5E – published on 6 August 2015) and on **Switzerland** (Greco RC-III (2015) 6E – published on 17 August 2015) GRECO concluded that the level of compliance with its recommendations remains

“globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. Therefore, the application of Rule 32 is maintained and, pursuant to paragraph 2(i) of that rule, both member States have been requested to provide a report on progress in implementing the pending recommendations by 31 March 2016.

30. Moreover, pursuant to paragraph 2 (ii) b) of Rule 32, the President of the Statutory Committee is invited to send letters to the Permanent Representatives to the Council of Europe of Bosnia and Herzegovina, and Switzerland underlining the need for the authorities to take determined action with a view to achieving tangible progress as soon as possible.

31. With the adoption of the 3rd *Interim* Third Round Compliance Report on **Greece** (Greco RC-III (2015) 7E – publication pending) GRECO discontinued the application of Rule 32 in respect of that member. In accordance with Rule 31, paragraph 8.2, the Head of Delegation was asked to submit additional information on the action taken to implement the recommendations by 31 March 2016.

VI. Joint First and Second Evaluation Rounds

Theme I “Incriminations” / Theme II “Transparency of party funding”

Compliance procedures

32. The compliance procedure is terminated with the adoption of the 5th Addendum to the Joint First and Second Round Compliance report on **Ukraine** (Greco RC-I/II (2009) 1E 5th Addendum – published on 10 July 2015). GRECO nevertheless asked the authorities to provide further information concerning appointments to the National Agency for Prevention of Corruption (NAPC) under Item 4 of the agenda of GRECO’s 69th Plenary Meeting (October 2015).

Rule 32 procedures – non-compliance

33. In its *Interim* Joint First and Second Round Compliance Report on **Belarus** (Greco RC-I/II (2015) 2E – publication pending) GRECO concluded that the level of compliance with its recommendations remains “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. Therefore, the application of Rule 32 is maintained and, pursuant to paragraph 2(i) of that rule, the authorities been requested to provide a report on progress in implementing the outstanding recommendations by 31 March 2016 at the latest.

34. Moreover, pursuant to paragraph 2 (ii) (a) of Rule 32, the President of GRECO has been invited to send a letter, with a copy to the President of the Statutory Committee, to the Head of Delegation of Belarus, drawing attention to the need to take determined action with a view to achieving tangible progress as soon as possible.

VII. Publication, translation and availability of adopted reports (www.coe.int/greco)

35. The authorities of the members concerned were invited to authorise the publication of the reports adopted at the present meeting as soon as possible and were reminded of the action to be taken when publishing a report in order to enhance the visibility of GRECO’s work – in particular coordinating the date of publication with the Secretariat.¹

¹ GRECO asks its members to:

- agree a same-day publication date with the Secretariat
- clearly mark both the date of adoption and date of publication on the cover page
- make the national language version available and easily accessible on a domestic website
- notify the Secretariat of the location of the report by communicating the internet link to it
- include a link on the domestic website to the official language versions on GRECO’s website.

VIII. Preparation of the Fifth Evaluation Round – *Tour de table*

36. The President called on each delegation to succinctly voice their first (and, where applicable, second) choice from the consolidated inventory of thematic options (Greco (2015) 6E Revised) that had been prepared by Bureau 72 in light of the discussions held by Bureaus 69, 70 and 71 and GRECO Plenaries 66 and 67. The options listed were:

- A. Preventing Corruption and promoting integrity – members of government and senior civil servants/policy advisers
- B. Fighting corruption in law enforcement agencies
- C. Anti-corruption policies at local level
- D. Selected core issues of anti-corruption policies and measures
- E. Enforcing anti-corruption legislation – the impact of ETS 173 at domestic level

Copies of written contributions submitted by member States in advance of the tour de table (Greco (2015) 8E) were made available in the meeting room. Delegations who did not participate were to be consulted in writing so that their preferences could also be noted. The Bureau was asked to examine the complete results of the *tour de table* with a view to preparing pertinent options on which a final decision will be taken by end 2015 (GRECO 69 in October or GRECO 70 in December). The decisions related to the mandate and composition of a working party to prepare the draft questionnaire and other proposals related to the Fifth Evaluation Round will also be taken by end 2015.

IX. Exchange of views – Kyrgyz Republic

37. The President welcomed a delegation from the Kyrgyz Republic composed of representatives of the Office of the Prosecutor General, the Ministry of Justice and the Department of Environmental and Economic Cooperation of the OSCE Centre in Bishkek (see Appendix I – list of participants). In the context of the Council of Europe’s framework for cooperation with neighbouring regions, in-depth dialogue with the authorities of the country has led to the development of a comprehensive programme entitled “Neighbourhood Co-operation Priorities for the Kyrgyz Republic 2015-2017”. One of those priorities is:

- preventing and combating corruption in order to bring the country’s legislation into line with Council of Europe standards, with a view to the possible ratification of a certain number of the Organisation’s conventions in that field and possible accession to GRECO.

38. The overall objective of the activities organised under that priority area is to assess Kyrgyzstan’s legal framework for the fight against corruption and economic crime and to bring it into line with international and European standards and best practice with the aim of facilitating accession to the Council of Europe’s conventions in those fields and to GRECO. Awareness raising activities to present the Council of Europe’s legal instruments and the related accession procedures have been organised. The next stage is the carrying out – along the lines of the monitoring methodologies of GRECO and MONEYVAL - of a review of the institutional, legal and policy framework and practice for fighting corruption and money laundering. The authorities of the Kyrgyz Republic aspire to accede to the relevant standard setting instruments and monitoring mechanisms and see this process as essential preparation for that.

39. GRECO noted Kyrgyzstan’s active engagement in the review processes of the OECD Anti-Corruption Network for Eastern Europe and Central Asia and of the United Nations Convention against Corruption, the country’s declared commitment to a wide-ranging reform programme as reflected in the information provided by the delegation, and the stated strong political will to achieve the objectives set and to fight corruption without compromise. The interest of the Kyrgyz Republic in joining GRECO in the future is welcomed by the plenary.

X. Item 4 - Topical anti-corruption developments/events in member States

40. Under Item 4 of the plenary's agendas, delegations are invited to share information outside of the statutory evaluation and compliance reporting cycles. The information reported by delegations is summarised below.

Bosnia and Herzegovina

One key point of the new Anti-Corruption Strategy 2015-2016 – soon to be available in English on the website of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption – is strategic objective 3: improvement, effectiveness and efficiency of the judicial institutions and law enforcement bodies in the area of the fight against corruption. It ties in closely with the issues related to corruption prevention for judges and prosecutors GRECO is tackling in the Fourth Evaluation Round.

Georgia

Under the Anti-corruption Strategy and Action Plan adopted in February by the government and the Anti-Corruption Council, a new monitoring and evaluation tool has been developed. The authorities report that it is unique in that each and every commitment made will be evaluated and monitored first by the responsible agency, then non-governmental organisations, then thirdly by the Secretariat of the Anti-Corruption Council.

The third and last stage of a major reform of the judiciary has been reached. It focuses on increasing the independence of the judiciary and looks at the appointment of judges, disciplinary procedures, the composition and chair of the High Judicial Council and appointment of the chair of the Supreme Court. Findings of the Venice Commission were being taken into account in that process. With regard to the equally major reform of the prosecution service, draft legal amendments approved by the cabinet of ministers have been sent to parliament for adoption – they focus on the procedures for the appointment and dismissal of the Chief Prosecutor and the establishment and composition of a Prosecution Council. The reform is based on comparative research into the systems in some forty countries and has drawn on the findings of GRECO in its Fourth Evaluation Round.

Germany

Draft legislation – a Draft bill to Combat Corruption in the Health Care Sector - prepared by the Federal Ministry of Justice and Consumer Protection was submitted to public consultation in February 2015 and is due to be adopted by the Federal Government this summer, then submitted to parliament.

The authorities explain that the bill is not intended to cover bribes paid by patients to doctors in order to receive medical treatment, preferential or speedier treatment. That kind of corruption is virtually non-existent in Germany and, moreover, bribes paid to doctors or nurses working for state owned hospitals are already covered by existing legislation. It is aimed at capturing, for example, the paying of a bribe by a pharmaceutical company to a doctor in return for the doctor prescribing medication produced by that company.

In the German health care system, medical doctors, especially general practitioners, are self-employed, i.e. they have their own private practice even though their work and remuneration is extensively regulated by the law on *public* health care. This means that when a medical doctor prescribes medication to a patient who is under the public health care insurance scheme, the cost of the medication is automatically covered by the public insurance provider (a public company) and the patient will in most cases not even see the bill.

This situation, where self-employed, private medical practitioners take important decisions on behalf of and with far reaching financial consequences for public health care insurers has led to some controversy regarding whether these doctors should be considered as public officials/agents of public

health care institutions. In a landmark decision in 2012, the Federal Supreme Court had decided that they are neither one nor the other. As a consequence, pharmaceutical companies bribing self-employed medical practitioners can neither be prosecuted for corruption of a public official nor for corruption in the private sector. The same is true with respect to a doctor who takes a bribe. The Federal Supreme Court made a very strong appeal to the legislator to address this issue.

Bribery in the health care sector distorts competition; it makes medical services more expensive, and undermines patients' trust in the integrity of medical decisions. In addition it has serious financial consequences for public health care insurers, and thus for the state budget. The bill aims to end impunity for such cases by creating a special offence of bribery in the health care sector which will in particular cover bribes given to and accepted by self-employed medical practitioners. The new provisions would prohibit them and certain other health care professionals from accepting any advantage in return for prescribing or dispensing certain medication or other medical products. The bill further foresees criminalising the giving or taking of bribes in return for referring patients to specific health care providers, laboratories, etc. In terms of active bribery, the offence would cover everyone, just as the established bribery offences do. The penalties foreseen are the same as those for bribery in the private sector under Germany criminal law – up to three years' imprisonment or a fine.

Italy

Law no. 69 of 27 May 2015 entered into force on 14 June 2015. It raises the maximum (principal) penalties for embezzlement, corruption whether in the context of a breach of duties by a public official or not, corruption in relation to judicial proceedings and undue inducement to give or promise money or other advantage. The maximum time period for which the accessory penalty that imposes a ban on negotiating or concluding contracts with central or local government authorities can be imposed has been increased. The scope of application of the accessory penalty of termination of public employment has also been broadened.

Moreover, under the new legislation, whenever a serious offence against the public administration has been committed, the courts must rule that financial compensation equal to the value of the corrupt payment or illegally obtained advantage is to be paid by the perpetrator to his/her branch of the public administration.

Drawing inspiration from a strategy that has been successful in the fight against the mafia, the law introduces a special mitigating circumstance by which sanctions can be reduced by between a third and a half if the accused collaborates with a corruption investigation by providing evidence or information that helps to stop the corrupt act, the identification of perpetrators or the seizure of the proceeds (or other advantages) of corruption.

An obligation has been placed on the prosecutor to inform the national anti-corruption authority of any step in criminal proceedings that reveals an offence by an official against the public administration. False accounting is established as a criminal offence under the law – and not as a minor offence as had been the case since 2002. The applicable penalties are up to 8 years' imprisonment for administrators or senior managers of companies listed on the stock market or financial institutions trading on the Italian or European Union markets, and up to 5 years' in other cases. Those categories of penalty allow for the use of the most effective investigation techniques and precautionary measures if there is a risk of flight, contamination of evidence or of repeat offending.

Also on 14 June 2015, Law no. 68 on crimes against the environment of 22 May 2015 entered into force. It introduces a special aggravating circumstance for fraud or corruption aimed at perpetrating or concealing environmental offences. In addition, it provides for a particularly severe aggravating circumstance applicable to public officials or staff involved in the issuing of licences or inspections, for conspiring to commit an environmental offence.

Latvia

In March 2015 GRECO had concluded (Fourth Round Compliance Report) that of the fourteen recommendations addressed to Latvia, eight had not been implemented and four others had been partly implemented - that performance was deemed “globally unsatisfactory”. Since then, the Corruption Prevention and Combating Bureau (KNAB) has organised a series of meetings with the authorities responsible for the implementation of GRECO’s recommendations and a number of initiatives have been taken to progress with compliance with the recommendations.

GRECO has recommended that measures be taken to strengthen the independence of the KNAB to ensure that it can exercise its functions in an independent and impartial manner. In April, a draft Law on KNAB was reviewed by all government ministers during the government session. The State Chancellery’s objections were taken into account in an up-dated draft that was sent to the parliamentary committee on defence, internal affairs and corruption prevention which decided to refer the draft to the anti-corruption sub-committee. The latter is to prepare a draft to be put before a plenary session of parliament.

The Minister of Justice has held a meeting with the Prosecutor General, the chairpersons of the Association of Judges and the Association of Administrative Judges, and KNAB to discuss abolishing the administrative immunity accorded to judges and prosecutors. It is hoped that a draft law will result from those discussions.

GRECO’s Fourth Round Compliance Report has been forwarded (in English and Latvian) by KNAB to the pertinent parliamentary committees and to all political groups represented in parliament – including the opposition. KNAB has participated in parliamentary committee meetings on the issue of regulating how MPs engage with lobbyists and other third parties who seek to influence the legislative process, and has met with representatives of the parliamentary corruption prevention sub-committee to discuss implementation of all Fourth Round recommendations in respect of MPs. As a result, MPs sitting on the sub-committee have shown support for amending the Code of Ethics that applies to them and for abolishing administrative immunity.

Moldova

New legislation on the financing of political parties and election campaigns prepared in response to GRECO’s Third Round recommendations entered into force on 14 April 2015. All of GRECO’s recommendations have been transposed into this new law. The Permanent Electoral Authority has been given the competence and requisite means to verify political party accounts, and the power to notify the criminal prosecution authorities of infringements of the law. Penalties, fines and criminal sanctions have been provided for.

Other changes concern donations and the identification of donors, and the differences between donations and subscriptions have been clearly defined. The law stipulates the type of information to be provided in financial reports and external audit of parties has been introduced.

Monaco

In December 2012, in response to recommendations issued by GRECO, Monaco modified the provisions of its Penal Code on taking unlawful advantage of an interest, active and passive bribery and trading in influence. In part as a result of that reform, in March 2015 a criminal investigation was opened against a public administration official suspected of corruption and falsification of records in the context of a public procurement procedure. One can assume that, in a country as small as Monaco, the press reports that are being published on the case – in addition to the punitive nature of the criminal investigation itself – will have a preventive and dissuasive effect.

Montenegro

In December 2014, the Anti-Corruption Law providing for the establishment by 1 January 2016 of an Anti-Corruption Agency was adopted. Currently, in partnership with the European Commission, several other international organisations, as well as counterparts and experts from, inter alia, Austria, Latvia, Serbia, Slovenia and the United Kingdom, all efforts are focused on drawing up the related rules, regulations and internal acts of the future agency, designing its IT system and securing adequate premises. Parliament has received for adoption a proposal for the composition of the Management Council of the Agency.

Romania

The Law on the Financing of political parties has entered into force and the authorities are of the opinion that GRECO should be in a position, in October 2015, to conclude within the Third Round compliance procedure in respect of Romania that a further six of GRECO's Third Round recommendations have been satisfactorily implemented and four partially implemented.

The government has recently approved a draft law establishing an assets management office – a new agency to deal with seized assets that replicates models from Belgium, France and the Netherlands and also intends to reflect best practices from the USA. The draft law is being discussed in parliament and it is hoped that the agency will be operational by end 2015.

GRECO's Fourth Round evaluation visit to Bucharest was held in parallel with a European Commission evaluation mission under the Cooperation and Verification Mechanism which also dealt with the topic of integrity in the judiciary and in parliament. In the context of those visits the findings of a recent study – "Offenders on causes and consequences of corruption: a Study of corruption in Romania" were shared. The study involved a written, questionnaire-based survey as well as face-to-face discussions with individuals convicted of corruption and provides a snapshot of their perceptions based on their experiences either of active or passive corruption. The sample was quite broad – 315 people serving sentences for corruption in 2014 (out of a total number of approximately 1,300) 265 of whom convicted in 2014, 300 of whom were serving a prison sentence; the others were on probation. A number of the findings will serve as a basis for future policy; they document, for example, the reality with respect to what is often thought to be a cause of corruption – i.e. the correlation with salaries. The findings in fact show no correlation between levels of income and the likelihood of someone committing a corruption offence. Secondly, with respect to the risks associated with committing a crime, for many of the perpetrators interviewed, the risk of being caught was not considered to be a deterrent. Another finding that provides food for thought is the discrepancy identified between the individual values of the persons convicted and what are thought to be the values of society - i.e. between what is prescribed in legislation (usually a high standard) and what individuals consider to be right or wrong, ethical or not. It is planned to extend the study, possibly internationally, and partners wishing to replicate it are being sought in order to obtain more comparative data.

Note: the study was sent by the Secretariat to all GRECO representatives by e-mail on 21 July 2015.

Slovenia

Work on amending the Integrity and Prevention of Corruption Act has begun with a focus on improving the procedure the Commission for the Prevention of Corruption (CPC) uses in its work related e.g. to the supervision of asset declarations. The lack of clear procedural provisions has proved to be one of the main problems of the current anti-corruption legislation.

Furthermore, the conditions for publishing data will be reviewed to resolve legal issues the CPC is facing with the online application *Supervisor*. Several individuals have disputed the publication of data concerning them and the Information Commissioner of Slovenia is investigating possible infringements of the data protection legislation in that context.

The foreseen amendments to the act do not aim to influence the status of the CPC as an independent state body and no body will be designated to supervise the CPC or to act as a second instance. The changes are in the early stage of design and are scheduled to be completed by the end of the year and submitted to Parliament in 2016.

A decision by the Constitutional court has taken everyone by surprise. On 22 April it quashed the decisions of all three instances, namely the first instance court from June 2013, the Court of Appeal in Ljubljana and the Supreme Court in the notorious Patria case in which one of the accused, the former Prime Minister Janez Janša was found guilty of accepting the promise of a bribe for his political party in return for granting a public procurement contract to a Finnish company that produces armoured vehicles.

The Constitutional Court found that the first instance court had breached the principle of legality by not establishing beyond reasonable doubt that the promise of a bribe had been accepted, basically ruling that the elements constituting the offence have to be proved independently and that indirect (in this case, the cash flow) proof is not enough.

The decision puts an additional pressure on the Slovenian judiciary with respect to the standards of proof governing the court procedure in cases that involve accepting/giving the promise of a bribe.

Turkey

Disciplinary proceedings against a number of judges and prosecutors in Turkey had recently attracted the attention of the media. The current disciplinary proceedings involve serious allegations, for example, of bribery, undue influence, the unlawful seizure of property, unlawful interception of phone conversations, unlawful custody orders, unlawful release of suspects, wilful default and violations of confidentiality.

In that context, the Head of Delegation wished to provide the plenary with information on the legal regulations and practice pertaining to disciplinary proceedings against judges and prosecutors and the legal guarantees afforded them. He reported that disciplinary action is carried out under the sole authority of the High Council of Judges and Prosecutors (HCJP) which is an independent body provided for under the Constitution, composed of twenty-two members (largely senior judges and prosecutors) sitting in three chambers, each composed of 7 members. Its functioning is governed by the principles of impartiality and independence of the judiciary, and the rule of law, including:

- a transparent process
- the right to a defence
- the collection of all evidence, including evidence in the favour of the suspect
- decision-making in accordance with pre-established rules and procedures that are applicable in all cases
- the independence and impartiality of the decision-making authorities
- access to effective administrative and judicial remedies.

The first chamber of the HCJP is responsible for the appointment and promotion of judges and prosecutors. The second and third chambers are responsible, *inter alia*, for disciplinary procedures. Complaints against judges and prosecutors are first handled by the third chamber which initiates preliminary investigations. HCJP inspectors designated by the third chamber then carry out an investigation to gather all the evidence related to the allegations and the defence. If on the basis of the evidence it is felt that the complaint is justified, the disciplinary file is sent to the second chamber which takes a decision on the disciplinary responsibility of the judge/prosecutor.

The second chamber will then take account of final submissions made by the judge/prosecutor in his/her defence. If the second chamber finds that the file does not present enough evidence to justify a disciplinary sanction, it dismisses the complaint. If, on the other hand, it finds that the complaint is

supported by the evidence, testimonies and documents on file, it decides which sanction should be applied. The judge/prosecutor in question can appeal that decision before the General Assembly/plenary of the HCJP. Furthermore, if the decision would mean that dismissal would be the sanction, the judge/prosecutor can appeal the decision before the Council of State.

United Kingdom

In December 2014, in GRECO's Fourth Round Compliance Report on the United Kingdom, three recommendations in respect of members of parliament, in particular relating to the provision of clear guidance, the acceptance of gifts and reporting thresholds, were deemed partly implemented pending the adoption and implementation of an up-dated Guide and Code of Conduct for MPs. The draft published at that time has now been debated and implemented and came into effect with the new parliament. It can also be noted that in December the Government published an Anti-corruption Plan bringing together all UK anti-corruption activities. Government departments are required to account for their progress under it on a regular basis. It is accessible on line and makes reference to the good work of GRECO (<https://www.gov.uk/government/publications/uk-anti-corruption-plan>).

United States of America

In the context of GRECO's Third Evaluation Round – Theme I, Incriminations, the USA has taken the position that the use the authorities make of the Wire Fraud Statute, the Mail Fraud Statute, the Money Laundering Statute, the Travel Act, etc., forms the functional equivalency of a free-standing private bribery statute. One recent example can be seen in the context of the FIFA indictments. In that case, a lengthy document prepared by the prosecution includes not only the indictment (i.e. the charges against the individuals) but also the many documents termed "informations" to which individual defendants have pled guilty and provides a very good example of how the statutes are knitted together to creation a functional equivalency of free-standing commercial or private bribery statutes (accessible, on the New York Times website, by searching "FIFA indictment full text").

XI. Adoption of decisions

41. The decisions of the 68th Plenary Meeting were adopted as they appear in document Greco (2015) 9E.

XII. Forthcoming meetings

42. The Bureau will hold its 73rd meeting in Strasbourg on 11 September 2015. GRECO's 69th Plenary Meeting will be held in Strasbourg on 12-16 October 2015.

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Fourth Round Evaluation Report on Greece / Rapport d'Évaluation du Quatrième Cycle sur la Grèce

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Court of Appeal Judge Oporto, Vice President of the International Association of Judges and of the Ibero-American Group of the International Association of Judges

RAPPORTEURS

Fourth Round – Compliance Reports / Quatrième Cycle – Rapports de Conformité

Luxembourg

Mr Olivier GONIN (Switzerland / Suisse)
Mr Georgi RUPCHEV (Bulgaria / Bulgarie)

Netherlands / Pays-Bas

Ms Elena KONCEVICIUTE (Lithuania / Lituanie)
Ms Panagiota VATIKALOU (Greece / Grèce)

Third Round – Second Compliance Report / Troisième Cycle – Deuxième Rapport de conformité

Georgia / Géorgie

Mr Oleksiy SVIATUN (Ukraine)
Mr Jens-Oscar NERGÅRD (Norway / Norvège)

**Third Round – Interim Compliance Reports /
Troisième Cycle – Rapports de conformité intérimaires**

Bosnia and Herzegovina / Bosnie-Herzégovine

Mr Kevin VALLETTA (Malta / Malte)

Mr Matjaž MEŠNJAK (Slovenia / Slovénie)

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Ms Jane LEY (United States of America / Etats-Unis d'Amérique)

Switzerland / Suisse

Mme Cornelia VICLEANSCHI (Moldova)

Mme Agnès MAITREPIERRE (France)

**Joint First and Second Rounds – Interim Compliance Report /
Premier et Deuxième Cycles conjoints – Rapport de conformité intérimaire**

Belarus / Bélarus

Mr Danny POLK (Germany / Allemagne)

Mrs Alicja KLAMCZYNSKA (Poland / Pologne)

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68th GRECO PLENARY MEETING

Strasbourg, 15-19 June 2015
Palais de l'Europe, Room 5

AGENDA

68^{ème} REUNION PLENIERE DU GRECO

Strasbourg, 15-19 juin 2015
Palais de l'Europe, Salle 5

ORDRE DU JOUR

1.	Opening of the meeting 9.30 am	Ouverture de la réunion 09h30
2.	Adoption of the agenda	Adoption de l'ordre du jour
3.	Information from the President and the Executive Secretary	Communication du Président et du Secrétaire Exécutif
4.	Topical anti-corruption developments/events in member States	Développements/événements anti-corruption d'actualité dans les Etats membres
5.	First reading Evaluation Reports – Fourth Round Serbia Monday Montenegro Tuesday Greece Wednesday	Première lecture Rapports d'Evaluation – Quatrième Cycle Serbie Lundi Monténégro Mardi Grèce Mercredi
6.	Adoption Compliance Reports – Fourth Round Luxembourg Netherlands	Adoption Rapports de Conformité – - Quatrième Cycle Luxembourg Pays-Bas
7.	Adoption <i>Interim</i> Compliance Reports – Third Round Bosnia and Herzegovina Greece Switzerland	Adoption Rapports de Conformité <i>intérimaires</i> – Troisième Cycle Bosnie-Herzégovine Grèce Suisse
8.	Adoption 2 nd Compliance Report – Third Round Georgia	Adoption 2 ^e Rapport de Conformité – Troisième Cycle Géorgie
9.	Adoption <i>Interim</i> Compliance Report – Joint First and Second Rounds Belarus	Adoption Rapport de Conformité <i>intérimaire</i> – Premier et Deuxième Cycles conjoints Bélarus
10.	Adoption 5 th Addendum to the Compliance Report – Joint First and Second Rounds Ukraine	Adoption 5 ^e Addendum au Rapport de Conformité – Premier et Deuxième Cycles conjoints Ukraine
11.	Fifth Evaluation Round - Thematic options – <i>Tour de table</i> (cf. decision 21 of GRECO 67) - Next steps Thursday – 9.30 am	Cinquième Cycle d'Evaluation - Options thématiques – <i>Tour de table</i> (voir décision 21 du GRECO 67) - Prochaines étapes Jeudi – 09h30
12.	Exchange of views Representatives of the Office of the Prosecutor General of the Kyrgyz Republic Thursday – 12 a.m.	Echange de vues Représentants du Bureau du Procureur Général de la République Kirghyze Jeudi – 12h00

13. Second reading and adoption Evaluation Reports – Fourth Round Serbia Montenegro Greece	Friday	Deuxième lecture et adoption Rapports d'évaluation – Quatrième Cycle Serbie Monténégro Grèce	Vendredi
14. Miscellaneous		Divers	
15. Adoption of decisions		Adoption des décisions	
16. Dates of next meetings		Dates des prochaines réunions	
17. Close of the meeting	Friday, <u>1 pm</u>	Fin de la réunion	Vendredi, <u>13h00</u>

EXCHANGE OF VIEWS BETWEEN GRECO'S PRESIDENT AND THE COMMITTEE OF MINISTERS
(1231st meeting of the Ministers' Deputies – 17 June 2015)

Speech delivered by Marin MRČELA, President of GRECO

Distinguished Chairman,²
Distinguished President of GRECO's Statutory Committee, Ambassador GUNNING,³
Secretary General,
Ladies and Gentlemen,

It gives me great pleasure to present to you today the fifteenth edition of the General Activity Report of the Group of States against Corruption (GRECO).

As stressed in the Report's Foreword the Secretary General's 2014 Report on the State of Democracy, Human Rights and the Rule of Law makes a compelling case for continued engagement in the fight against corruption at all levels. GRECO has strongly welcomed this report which rightly emphasises that too many people in Europe continue to face corruption on an everyday basis. Moreover, there is now a higher level of awareness regarding the pervasive effects of mismanagement, conflicts of interest and corruption in both public life and the private sector. All this is further compounded by the financial and economic difficulties in Europe which are not likely to be resolved in the near future.

Mr Chairman,

There has been no change to GRECO's membership of 49 since the accession of Belarus in January 2011.

As many of you will remember, in December 2013, your Committee issued a formal invitation to Kazakhstan to join GRECO. Since then, there has been complete silence at the country's end. We are aware that certain formalities, including the establishment of an agreement on privileges and immunities of GRECO representatives and evaluation teams will need to be completed before the country's membership becomes effective. It is difficult to understand why this process takes so long. There is a strong impression in GRECO that Kazakhstan is mainly aiming at an *effet d'affichage* rather than seeking to undergo peer evaluation under the GRECO process as soon as possible and thus to benefit from our unique European experience.

Kyrgyzstan is another country in Central Asia that has shown an active interest in GRECO. Following the adoption by your Committee of "Neighbourhood Co-operation priorities with the Kyrgyz Republic" early this year, a Kyrgyz delegation that visited the Council of Europe in March 2015 stressed Kyrgyzstan's interest in joining GRECO and asked that an exchange of views with GRECO be organised. That exchange of views will take place tomorrow.

Ladies and Gentlemen,

As you are aware, the Report by the Secretary General put strong emphasis on the need to reinforce integrity in the judiciary, law enforcement and prosecutorial bodies, but also on the need to further MPs' commitment to corruption prevention in their own ranks. This reflects the focus of GRECO's current Fourth Evaluation Round which deals specifically with corruption prevention in respect of members of parliament, judges and prosecutors. By the end of 2014, a total of 24 Evaluation Reports had been adopted. The reports make it abundantly clear that there is a need for action and for mobilising the requisite political will to address the shortcomings identified.

Allow me to briefly highlight some of the substantive results.

Despite the different status and role that MPs, judges and prosecutors play, our monitoring work demonstrates a high degree of convergence as regards the common integrity challenges that these professional groups face. In respect of all of them there is a certain urgency to regulate conflicts of interest. However, in most member States

² Mr Almir ŠAHOVIĆ, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Bosnia and Herzegovina to the Council of Europe.

³ Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the Council of Europe.

this issue remains unregulated, and in others, legislative frameworks are so complex or frequently amended that the stability and clarity of legislation are severely undermined. Concerning MPs in particular, their susceptibility to undue influence by third parties, including lobbyists, warrants sustained attention.

Whether we are talking about hard or soft law, implementation is as vital as regulation. In respect of many of our members, efforts to close the implementation gap need to be considerably stepped up. A multiplicity of rules and supervisory bodies is not necessarily found to be synonymous with effectiveness or efficiency. According to many GRECO reports, the lack of clear commitment to ethical conduct is marked. Mechanisms for obtaining help, advice or training are limited and the procedures for responding to ethical violations are ineffective. Evidence from a number of countries suggests, nevertheless, that an integrity culture can emerge within public assemblies and the justice system without specific measures being imposed on their main actors. Indeed, understanding what constitutes integrity and the objectives of instilling an integrity culture – be it among MPs, judges or prosecutors – is the essence of GRECO's Fourth Round.

By the end of 2014, a considerable number of compliance reports pertaining to the Third Evaluation Round had been processed. I am referring to assessments of the action taken by our member states in response to GRECO's country-related recommendations. Three countries will still have to undergo evaluation under that round during the current year as they joined GRECO at a relatively late stage. The focus of the round is a) the criminal law of corruption and b) the financing of political parties and election campaigns.

While the track record of member states regarding their anti-corruption legislation is mostly positive – notably their compliance with the Criminal Law Convention on Corruption and its Additional Protocol – the funding of political life remains an important area of concern.

I must repeat what I have said on previous occasions, namely that the poor performance of a sizeable number of member states reflects the difficulty, and sometimes the impossibility of reaching a viable agreement among political parties to improve the transparency of political financing. That said, over the last two years, we have been able to terminate the special procedure applied to member states whose overall performance had to be categorised as “globally unsatisfactory” in altogether seven cases.⁴ This is clearly a piece of good news that shows that major advances regarding the funding of political life are possible, even if they sometimes take a lot of time. It is axiomatic for me that keeping the pressure up from GRECO's side is a key factor for making this happen. This pressure involves placing the countries concerned under closer scrutiny through a higher frequency of reporting, addressing letters by the Secretary General to the Ministers of Foreign Affairs of the country concerned or – a facility not yet used – publishing a declaration of non-compliance.

Let me add that the few compliance procedures carried out so far in the framework of the Fourth Evaluation Round provide a mixed picture. It is a little disappointing that the action taken in response to our recommendations remains rudimentary in a sizeable number of cases despite the general recognition that the areas under consideration in the Fourth Round call for a particular engagement on the side of our member states.⁵

Mr Chairman,

I am happy to update you once again on our work on gender and corruption. It is gratifying that the Gender Equality Commission (GEC) has praised GRECO's approach and contribution to the implementation of the Council of Europe's Gender Equality Strategy. GRECO's Gender Equality Rapporteur, Ms Helena LIŠUCHOVÁ (Czech Republic) has played a key role in that process by promoting the concept of gender mainstreaming and a changed mind-set on gender-specific issues in anti-corruption policy making. In this context, we will hold a round table on “Gender dimensions of corruption” in Strasbourg, on 14 October 2015, during the 69th GRECO plenary meeting. That event will be a follow-up to a Seminar on Public Administration and Gender Equality (Ljubljana, December 2014) and an earlier international conference organised by GRECO under the auspices of the Senate and the Ministry of Justice of the Czech Republic in 2013, which laid the groundwork for our own engagement with this issue. The roundtable will be an opportunity to present a synthesis of basic observations from our Fourth Evaluation Round which will – I hope – trigger further interest.

⁴ Belgium, Germany, Portugal, the Netherlands, the Slovak Republic, Slovenia and Sweden.

⁵ Of the 7 impact assessments carried out between January 2014 and March of the current year, 3 have given rise to a non-compliance procedure.

The 2014 report by the Secretary General calls on monitoring bodies to look into amending their operational practices with a view to improving their capacity for rapid reaction in emergency situations or in response to urgent requests from member states. After careful consideration, GRECO decided last year that its main strategy for dealing with such situations would involve conducting an ad hoc focused dialogue with the member States concerned. We have adopted a specific framework for that. It does not, however, favour over-hasty reactions that might not secure lasting results. GRECO has already some telling experience in reacting to pressing issues in its member states, for example legislative initiatives thought to infringe international anti-corruption standards or run counter to GRECO recommendations and changes that might negatively affect specialised anti-corruption bodies.

Last year we started to reflect on the thematic scope of our Fifth Evaluation Round which GRECO plans to launch in 2017. The themes under discussion demonstrate that there are still many burning issues related to governance and democratic security and that often trigger public concern and disgruntlement. These issues relate notably to the prevention of corruption in government and/ or law enforcement agencies, anti-corruption policies at local level and the actual enforcement on the ground of the criminal law on bribery and corruption. I am confident that we will manage to choose an evaluation theme that is of political relevance and that will help to effectively respond to citizens' worries as regards the integrity of the institutional infrastructure (and of its personnel) on which democracy rests.

Ladies and Gentlemen,

Coming to the end of my presentation, I will have to turn once again to the thorny question of EU accession to GRECO. Ever since the adoption of the Stockholm programme in 2010, this question has been addressed during all appearances of GRECO's President before your Committee. Again there is little, if any, genuine progress to report. Some of you might remember the Commission's Communication on EU participation in GRECO of October 2012. To many, the Communication appeared to be a major step forward. However, it triggered a significant controversy at EU and GRECO level, as a large number of member States felt that the EU should seek full membership from the start and not pass through a transitional status as what they called "a full participant", which, by the way, is a status that is not foreseen under any of GRECO's statutory instruments. Being subject to evaluation by GRECO is a principle of crucial importance to membership. In this connection, the Secretary General had expressed the expectation that the Impact Assessment on "full" EU participation in GRECO underway at the time within EU institutions, would be completed soon, and that subsequently, concrete talks between the Council of Europe/GRECO and the Commission on the modalities of EU-participation in GRECO could start.

We were particularly pleased when the Commission stated in its first Anti-corruption Report of February last year that it "is currently taking measures which will allow full accession of the EU in the future". In June of the same year, the Justice and Home Affairs Council expressly called for the full accession of the EU to GRECO as soon as possible and for the ensuing evaluation of EU institutions by GRECO. There have been other calls and pronouncements emanating from the EU's side in favour of formal accession, not only by the European Parliament, but also by the European Court of Auditors which stated in its so-called *View on the Commission's Anti-Corruption Report* of April last year that: "No convincing reasons are provided why the European Union does not yet participate ... in GRECO. The European Union should engage with GRECO with the aim of gaining full membership, the objective being to bring the EU administration onto the same level as the governments of its 28 Member States, whose compliance with Council of Europe anti-corruption standards is already subject to evaluation."

We have often been told that important legal issues that result from the institutional specificities of the Union need to be clarified at EU level. I appreciate that, but I find it increasingly difficult to understand why so little visible progress has been made over all these years - despite the often repeated commitment to join. I hope that President Juncker's recent assurances to the Secretary General according to which "he will do what he can" to ensure that the EU joins as a current member will ultimately bear fruit and help solve the legal issues involved. I would certainly appreciate at this stage an end to the current silence at EU level and information on the state of play, notably regarding the legal questions under consideration and the concrete results of the impact assessment referred to earlier. I understand that a number of EU institutions appear to welcome the perspective of being evaluated under GRECO's peer review process.

I really hope that with the new Commission this "dossier" will receive fresh impetus.

Thank you very much for your attention.