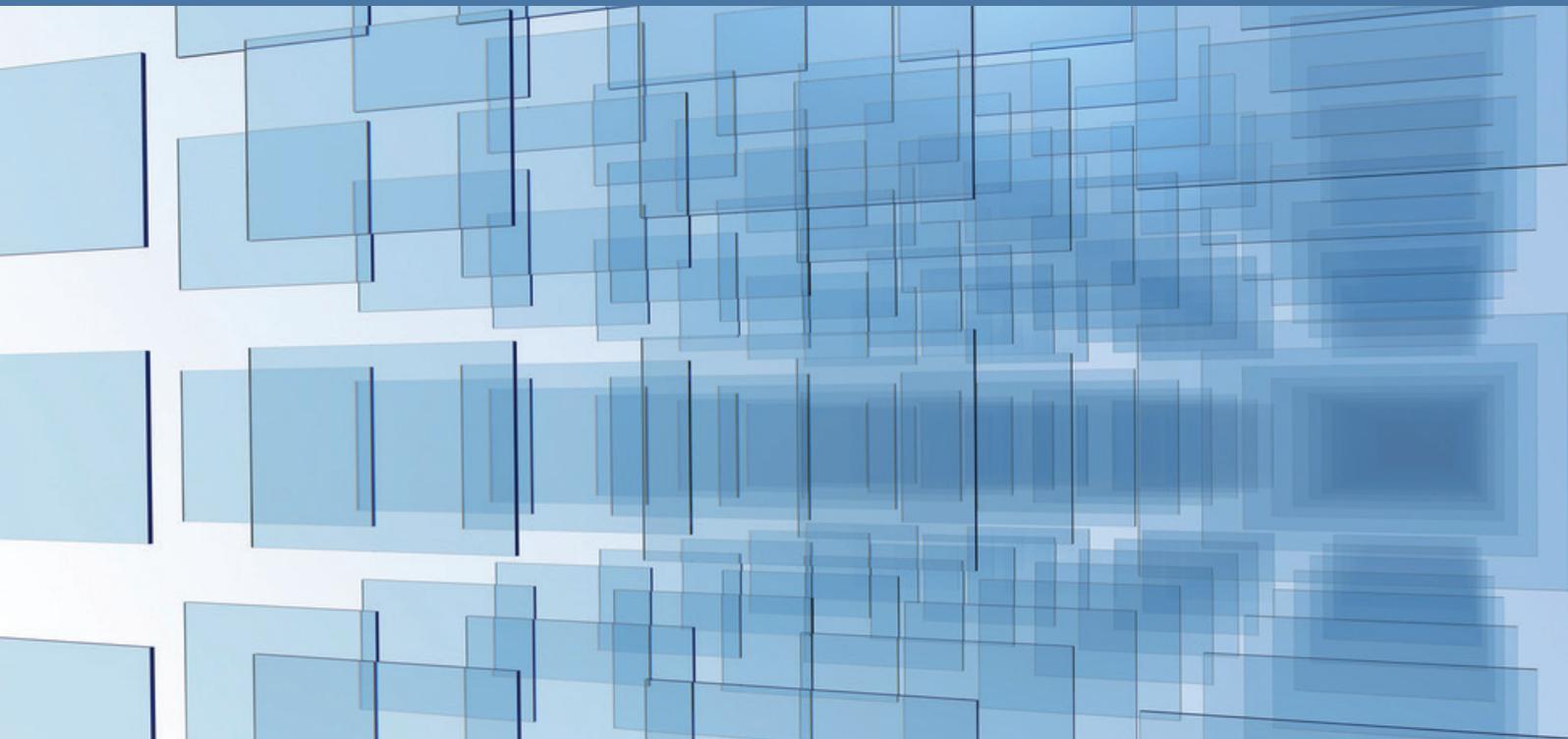


**GRECO**  
Group of States against Corruption  
**16th General Activity Report (2015)**



**Mission**  
**Results and impact**  
**Interaction**

Feature article:  
**Transparency in political finance**



Group of States against Corruption  
Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



# Sixteenth General Activity Report (2015)

of the Group of States  
against Corruption

Adopted by GRECO 71  
(Strasbourg, 14-18 March 2016)

**Feature article:**  
**Transparency in political finance –  
public and civil society oversight**

16<sup>th</sup> General Activity Report (2015)  
of the Group of States against Corruption

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# Foreword

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## ***Marin MRČELA, Justice at the Supreme Court of Croatia, President of GRECO***

**T**his report records the principal elements of our work at the end of a very demanding year. The need to reassure the citizens of our member States and build up – sometimes even recast – confidence in national institutions, systems and decision makers has seemed particularly pressing in recent times.

Those familiar with our work will know that GRECO is neither a political/diplomatic body, nor a public relations platform. Evaluation teams, and the country representatives appointed on a permanent basis who compose the Plenary constitute bodies of solid professional and technical expertise that is brought into play in the various preparatory and validation stages of our monitoring. They are well placed to assess and give serious consideration to issues that need to be addressed and to the formulation of measures to counter corruption. The will to find pragmatic solutions to the gaps that let corruption in operates throughout our work.

The Bureau and Plenary discussions leading to the decision in October to devote GRECO's 5<sup>th</sup> Evaluation Round (to be launched in 2017) to *Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies* clearly demonstrated – as much through the theme that was chosen as through the themes that were not – a high level of engagement. That new round will extend GRECO's monitoring to two other essential areas of the state – and in numerous respects a similar approach to that adopted in the 4<sup>th</sup> Round will most probably be possible. Interestingly, in our discussions there was also clear support in many quarters for dealing with corruption and prevention measures at local level – despite the technical challenges for GRECO as an intergovernmental body that would derive in many cases from the independence of local level administration from central government; and

the question of the effective enforcement of anti-corruption legislation came close behind that in the preferences voiced in the Plenary. Both would certainly warrant close attention in the future. I look forward to the thorough preparatory work for the 5<sup>th</sup> Round that will be carried out in 2016 and will be key to the success in terms of reach, authority and impact of our future monitoring.

We have been told by the Director of Information Society and Action against Crime that our decision has been noticed with great interest in the Organisation – the need for bolstering integrity in law enforcement having been already highlighted in other activities, and the inclusion of central government forming a logical complement to the 4<sup>th</sup> Evaluation Round – and that the findings will again be very helpful in the long term, notably for the design of targeted anti-corruption technical assistance activities.

The Secretary General of the Council of Europe plays a highly welcome instrumental role in our efforts to forge change by raising problematic issues, such as unsatisfactory levels of compliance, through direct correspondence with ministers and in the context of his manifold contacts with governments and heads of state and other national/international stakeholders. He heightens our profile by adding his voice to our communication efforts when a report is published. GRECO has adopted a framework for ad hoc focused dialogue with member States in response to a specific request from the Secretary General to make monitoring mechanisms more responsive to urgent events – one of the initiatives that have resulted from the annual meetings of the presidents of monitoring and advisory mechanisms he convenes.

I wish to thank the Turkish authorities for their decision to become a major contributor to the budgets

of the Council of Europe which mitigates the limiting effects of successive years of zero nominal growth by increasing our resources in 2016-2017. This will reinforce our capacity to advance with compliance procedures and give us an opportunity to innovate by developing other actions to support implementation of our recommendations, such as better on-site communication with domestic stakeholders – members of parliament, for example, are excellent resource persons in terms of pushing matters forward at domestic level and merit special attention in the follow-up that could be given to evaluation reports. High-level talks in the capitals – particularly in situations of stalemate - and promoting our objectives in the professional associations of sectors such as the judiciary could also be highly effective.

The participation of the EU in GRECO is provided for under Article 5 of GRECO's Statute. It is a matter that has held a prominent place in discussions between the Council of Europe (and GRECO) and the European Commission for some time and which has been supported by the European Council. Pending further news on progress in this dossier, I would like to clarify,

in case of any ambiguity that might derive from the terms used in our respective statements on this matter, that for GRECO participation of the European Union implies full engagement both as an actor and as a subject in our evaluation and compliance procedures. If that comes about the positive impact of our work on trust and faith in the institutions that govern the citizens of our combined membership would certainly be amplified.

It is very satisfying to note both the praise our work receives in other fora, and the independent research projects that draw on our work mentioned in this report. This year's feature article *Transparency in political finance* is a highly informative non-commissioned study which makes a convincing case for the importance of public and civil society oversight in respect of money in politics, and I thank Magnus ÖHMAN for that contribution.

I invite all those wishing to promote and engage in domestic dialogue around the issue of corruption to consult our country reports ([www.coe.int/greco](http://www.coe.int/greco)) and join our efforts to gain alignment with GRECO's recommendations.

# Mission

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**T**he anti-corruption body of the Council of Europe has been operational since 1999. It was established as the result of the strong political will of Council of Europe member States to take decisive and enduring measures to counter corruption by ensuring adherence to the Organisation's far-reaching anti-corruption standards. The mission of its membership, which extends beyond the geographical span of the Council of Europe, is to promote recognition of the need for targeted anti-corruption action, awareness of corruption risks and careful consideration and implementation of reforms to remedy shortcomings in national policies, legislation and institutional set-ups.

The clear stated political objective of strengthening the capacity of member States to fight corruption is served by a monitoring model designed to provide each member state with a detailed analysis and set of recommendations that are tailored to the specific architecture of each country. Subsequent impact assessments ("compliance procedures") serve to verify achievements and actively push for alignment with what is recommended. Multiple layers of result validation and a high level of process ownership are salient features of this model, where the dynamics of mutual evaluation and peer pressure are brought into play.

# Core programme

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## On-site evaluation visits in 2015

### 4<sup>th</sup> Evaluation Round

- ▶ Armenia (13-17 April)
- ▶ Turkey (13-17 April)
- ▶ Romania (18-22 May)
- ▶ Portugal (29 June – 3 July)
- ▶ Cyprus (2-6 November)
- ▶ Republic of Moldova (2-6 November)
- ▶ Czech Republic (23-27 November)

### 3<sup>rd</sup> Evaluation Round

- ▶ Liechtenstein (21-25 September)
- ▶ San Marino (28 September – 2 October)
- ▶ Belarus (14-18 December)

## Meetings

### GRECO Plenary

- ▶ GRECO 67 (23-27 March)
- ▶ GRECO 68 (15-19 June)
- ▶ GRECO 69 (12-16 October)
- ▶ GRECO 70 (30 November - 4 December)

### GRECO Bureau

- ▶ Bureau 71 (20 February)
- ▶ Bureau 72 (22 May)
- ▶ Bureau 73 (11 September)
- ▶ Bureau 74 (29 October)

### GRECO Statutory Committee

- ▶ 20<sup>th</sup> Meeting – Adoption programme and budget 2016-2017 (26 November)

## Evaluation reports adopted in 2015

### 4<sup>th</sup> Evaluation Round

- ▶ Armenia
- ▶ Bosnia and Herzegovina
- ▶ Bulgaria

- ▶ Greece
- ▶ Hungary
- ▶ Montenegro
- ▶ Portugal
- ▶ Romania
- ▶ Serbia
- ▶ Turkey

## Compliance reports adopted in 2015

### Compliance with recommendations from the 4<sup>th</sup> Evaluation Round

- ▶ Compliance Reports on Estonia, Finland, Luxembourg, Slovakia, Sweden – procedures ongoing

#### Rule 32 procedures<sup>1</sup>

- ▶ Compliance Reports on Iceland, Latvia, the Netherlands – Rule 32 procedures opened
- ▶ Interim Compliance Report on Slovenia - Rule 32 procedure maintained

### Compliance with recommendations from the 3<sup>rd</sup> Evaluation Round

- ▶ Second Compliance Reports on Andorra, Georgia, Portugal, Ukraine – procedures ongoing
- ▶ Second Compliance Report on the Republic of Moldova – procedure closed
- ▶ Addenda to the Second Compliance Reports on Azerbaijan, Hungary – procedures ongoing
- ▶ Addenda to the Second Compliance Reports on Bulgaria, the Republic of Moldova, Spain (2<sup>nd</sup> Addendum) – procedures closed

#### Rule 32 procedures

- ▶ Second Compliance Report on Cyprus – Rule 32 procedure opened
- ▶ Interim Compliance Reports on Bosnia and Herzegovina (2<sup>nd</sup> report), Cyprus (1<sup>st</sup> report), Czech Republic (3<sup>rd</sup> report), Denmark (4<sup>th</sup> report), Switzerland (2<sup>nd</sup> report), Turkey (2<sup>nd</sup> report) – Rule 32 procedures maintained
- ▶ Interim Compliance Reports on France (3<sup>rd</sup> report), Greece (3<sup>rd</sup> report), Malta (2<sup>nd</sup> report), Romania (1<sup>st</sup> report) – Rule 32 procedures closed

### Compliance with recommendations from the Joint 1<sup>st</sup> and 2<sup>nd</sup> Round Evaluations

- ▶ Addendum to the Compliance Report on Liechtenstein – procedure ongoing
- ▶ 5<sup>th</sup> Addendum to the Compliance Report on Ukraine – procedure closed

#### Rule 32 procedures

- ▶ Interim Compliance Report on Belarus – Rule 32 procedure maintained

1. Non-compliance (see Enhancing compliance, page 25).

# Key findings

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## Prevention of Corruption in respect of Members of Parliament, Judges and Prosecutors

**T**he key findings summarised below are drawn from evaluation reports adopted by GRECO in 2015 in the 4<sup>th</sup> Evaluation Round.

### Armenia

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The fight against corruption has been high on the political agenda in Armenia for years, as evidenced by a number of legal reforms regarding corruption, integrity and strengthening of the judiciary. Nevertheless, it is widely agreed by observers that corruption remains an important problem for Armenian society. The judiciary is perceived as being particularly prone to corruption. Moreover, according to various national and international reports, the independence of the judiciary – both from external actors such as the executive and from internal judicial actors – appears unsatisfactory. Concerns have also been raised about the lack, in practice, of a clear separation of powers and the weakness of the National Assembly (the national Parliament) and the judiciary; the “excessive concentration of powers”; and the lack of transparency in public decision-making.

Against this background, it is crucial that the current reform process is pursued with determination. Regarding the judiciary, reforms launched on the basis of the Strategic Programme for Legal and Judicial Reforms for 2012-2016 – with the aim of ensuring a fair and effective judiciary – benefit from support by an EU-Council of Europe Project on strengthening the independence, professionalism and accountability of the justice system. More generally, a new anti-corruption strategy and a broad constitutional reform are under preparation. The latter foresees, *inter alia*, the introduction of a parliamentary system of government, the strengthening of Parliament's

oversight powers and of the role of the opposition, as well as establishing “an independent, autonomous and accountable judicial branch”.

In particular, GRECO recommends that measures are taken to further improve the transparency of the parliamentary process; the adoption of a code of conduct for MPs, coupled with further guidance through training and counselling; preventing circumvention of the restrictions on business activities by MPs, and strengthening the monitoring and enforcement of existing rules. With regard to judges, further amendments to the architecture of judicial self-government bodies, to the procedures for recruitment, promotion and dismissal of judges and to disciplinary procedures are clearly required. Similarly, the procedures for the recruitment and promotion of prosecutors need to be reformed, as do the procedures for the selection, appointment and dismissal of the Prosecutor General. It is also recommended that a deliberate policy for preventing improper influences on judges and prosecutors as well as conflicts of interest and corruption within the judiciary and the prosecution service be pursued, including through practical measures such as training, counselling and awareness-raising.

With respect to all categories of officials under review, the rules on the acceptance of gifts, on the requirement to submit regular asset declarations and on their control and enforcement – notably, by the Commission on Ethics for High-Ranking Officials – need to be further developed and to be made more effective in practice. Finally, the regulations on immunities appear unsatisfactory, and for judges it is recommended that immunity be limited to activities relating to their participation in the administration of justice.

Overarching concerns about the current system of state powers and public governance can only be addressed through a more comprehensive reform process. It is essential that the necessary reforms are carried through without delay, with the support of various political and societal forces, and that they yield concrete and sustainable results.

## Bosnia and Herzegovina

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Corruption represents one of the most pressing challenges in Bosnia and Herzegovina. Effective implementation of the legislative and policy framework for the fight against corruption has experienced repeated delays, largely due to the fragmented and uncoordinated institutional framework of the country and, more decisively, the lack of a firm political will to push forward a far-reaching anticorruption agenda.

Positive measures have been taken to enhance access to information regarding parliamentary work. More steps could be taken in the future to widen opportunities for public participation in the development, implementation and revision of legislation as a key tool to further strengthen the public oversight of parliamentary activities, as well as to provide transparency regarding the interaction of parliamentarians with third parties seeking to influence the parliamentary process. Some tools are in place to promote integrity principles in the legislature and to regulate and limit those activities that may compromise the parliamentary mandate by giving rise to conflicts of interest. It is important to ensure that the enactment of separate legislation on conflicts of interest at Entity/Brčko District of Bosnia and Herzegovina (BD) level, and the establishment of separate oversight institutions, does not lead to inconsistent standards in the respective parliaments. This situation deserves close follow-up.

More importantly, the monitoring and enforcement regime for integrity and conflict of interest prevention in the legislature needs to be strengthened significantly. While parliamentarians have an obligation to adhere to the ethical standards laid out in the Code of Conduct and the relevant internal Rules of Procedure, it is not clear how misconduct triggers sanctions. Likewise, the existing bodies monitoring conflicts of interest have important shortcomings regarding the effectiveness of their role: they either lack the required powers or independence to ensure abidance by the rules. Finally, the asset disclosure regime suffers from crucial shortcomings as regards the transparency and the actual control of the declarations submitted.

The complexity of the four judicial systems and threats to judicial independence are deeply affecting the efficiency of justice and fuelling a very negative public perception of the judiciary. The lack of certainty about available resources due to fragmented budgetary planning, as well as a large judicial backlog and poor case management, compound these difficulties. Placing the concept of judicial independence beyond doubt, ensuring a better prioritisation of cases and a more efficient use of available resources across the judicial systems would put the judiciary in a better position to rebuild public trust. The High Judicial and Prosecutorial Council, which has a key role in managing the judicial and prosecutorial professions, has

been having a positive influence in strengthening the independence and professionalism of the judiciary. However, progress is fragile and the Council currently faces criticism as regards its composition, organisation and the accountability of its members. Its operation must be strengthened, notably by providing for separate judicial and prosecutorial sub-councils, avoiding an over-concentration of powers in the same hands and ensuring that its decisions are subject to appeal before a court.

Turning to judges and prosecutors themselves, steps must be taken to improve performance appraisals, which are the determining factor for promotion. Furthermore, awareness of ethics and integrity rules needs to be strengthened and rules on conflicts of interest have to be developed for all judges and prosecutors and properly enforced. Annual financial statements submitted by judges and prosecutors must be put to better use, at the very least by introducing an effective review system, accompanied by the necessary resources and sanctions in case of non-compliance. Strengthening the Office of the Disciplinary Counsel, along with reviewing the disciplinary procedure and sanctions in case of misconduct, are also instrumental steps towards increasing the accountability of judges and prosecutors. Finally, these moves towards increased efficiency and accountability of the judicial system need to be communicated to the public as part of a concerted public communication strategy. Determination and transparency, taking into account the extra effort required in Bosnia and Herzegovina to counteract the damaging divisions from recent history, need to be built into carefully thought through efforts to reform and rebuild public trust in the country's judicial system.

## Bulgaria

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The prevention and fight against corruption have been long-standing priorities in Bulgaria. Over the last decade, substantial resources have been injected into building integrity, facilitating transparency and strengthening accountability in its public institutions, including specifically the legislature and the judiciary. Still, proven anti-corruption results have been few and scattered and appreciable breakthroughs are yet to be seen. Tackling what is believed to be a systemic problem across the public and private sectors in a cohesive, thorough and tangibly effective manner has remained a perennial challenge. Over this period, the levels of public perception of corruption have been relatively stable and saw some improvement after the country's accession to the EU in 2007.

Overall, a reasonably good legislative framework and many institutions and tools are in place to deter corruption in respect of the three professional groups under review. These include notably the systems for disclosure

of private interests and assets, which are regarded as the two cornerstones of the country's anti-corruption policy. That being said, the legal framework is complex, subject to frequent and often unpredictable changes and the actual regulation, in some instances, tends to rely on secondary legislation which is not always congruent with the principles and objectives pursued by primary laws. Also, the abundance of reporting instruments and oversight bodies has failed to bring in the desired cumulative effect or attain qualitative changes in corruption prevention efforts. Thus, the high degree of fragmentation and self-containment of oversight bodies as well as their alleged susceptibility to undue influence have meant that a holistic vision of corruption-related risks and vulnerabilities in the relevant sectors cannot be formed or the necessary inter-institutional co-operation forged and sustained.

Above all, most of the bodies are paper tigers, denied the power to conduct substantive checks. Scrutiny, if it is effected at all, is cursory and their role has been mainly confined to placing the declarations of private interests, incompatibilities and assets of MPs, judges or prosecutors in the public domain. In the absence of any thorough checks and discernible results in detecting and punishing violations of the conflicts of interest and asset disclosure rules by MPs, judges and prosecutors, transparency is perceived as being ostensible and has not therefore been conducive to boosting public confidence in the three institutions, judges being most vulnerable to public mistrust. For these reasons, carrying out independent evaluations of the effectiveness of the systems of disclosure and ascertainment of conflicts of interest and of disclosure and verification of assets, and of the impact that these have on the prevention and detection of corruption amongst MPs, judges and prosecutors, and undertaking appropriate corrective action is of primordial importance. It is also recommended that the private interests of MPs, judges and prosecutors – irrespective of whether these are declared regularly or *ad hoc* – be made subject to substantive and regular checks and that the respective professionals undergo intensive training on integrity, conflicts of interest and corruption prevention measures.

Contentious issues specific to each of the three professional categories include a need to further increase the transparency and inclusivity of the law-making process within the legislature by ensuring the effective enforcement in practice of the provisions of the Rules of Procedure regulating the Assembly's interaction with civil society, commercial and non-commercial entities and citizens, and putting in place adequate timelines for considering bills within the Assembly to secure meaningful and effective engagement by all interested parties. Also, although the first-ever inclusion of a section on the ethical conduct of parliamentarians in the 2014 Rules of Procedure is a praiseworthy development, the implementation framework remains

to be tested and the relevant oversight body is yet to prove its effectiveness in seeking out unethical practices. The long legacy of mistrust in politicians' demands that the momentum initiated by the adoption of the 2014 Rules of Procedure be maximised and the legislature's image enhanced. MPs need to be seen not only to be delivering a clear message of expectations but also to be reinforcing ethical comportment in practice, including by deepening their awareness of parliamentary ethics.

As for the judicial system, its vulnerability to undue political interference remains significant due to the decision-making processes within the Supreme Judicial Council, the key judicial self-governing body responsible for selection, appointment, promotion, in-house training and disciplinary action in respect of judges and prosecutors. Given that the Prosecution Service is part of the judicial branch, its membership of the Council's structures responsible for decisions on judges' careers allows for undue pressure to be exerted also by one arm of the judiciary on the other. That opportunity needs to be eliminated. Even though integrity compliant with the Code of Ethical Behaviour of Bulgarian Magistrates is the criteria for appointment and career progression of judges and prosecutors, the law does not require it to be taken into account on appointment or during periodic performance reviews and attestation for acquiring life tenure. Since the effectiveness of enforcement of integrity standards within the judiciary has been called into question, it is important that its strengths and weaknesses and its impact on corruption prevention within the judiciary are analysed and ascertained. Furthermore, implementation of the principle of random case allocation in the courts and prosecution offices needs to be ensured in practice and made subject to more stringent controls, with due regard being had to a fair and equitable workload. While motivating exceptional performance via incentives, including pecuniary bonuses, is an established practice, clear, objective and transparent criteria for their application must apply.

Continued reforms are needed to consolidate the existing legal framework, reinforce the powers, independence and effectiveness of the oversight institutions, and, no less importantly, to overcome fragmentation and instil a greater sense of ownership and motivation. Promoting such a cohesive and systematic approach to corruption prevention is essential if tangible results and sustained enforcement are to be guaranteed. In this regard, the political will is yet to match public consensus.

## Greece

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Corruption is now considered as one of the problems which have driven Greece into the current financial crisis. Greece thus adopted in 2013/2014 an anti-corruption strategy and an action plan. The perception

of corruption remains at high levels although some positive trends can be observed in recent years according to the indexes published by Transparency International. Politicians at national and regional/local level are perceived by a large proportion of the population as particularly affected by certain forms of corruption. To a lesser extent, this concerns also the judicial institutions, whilst at the same time the courts are among the institutions which are generally trusted by Greek citizens. Controversies have been triggered by incidents of legislative and institutional manipulation exempting from liability the authors of illegal acts: this was facilitated by the complexity of legislation, insufficient transparency of the legislative process, a lack of appropriate controls and other factors.

Greece is at an early stage of integrity-related policies for parliamentarians. There is no code of conduct as yet and rules are missing in respect of a variety of areas such as: the management of conflicts of interests that might arise; circumstances in which gifts, hospitality and other benefits can be accepted; preventing the misuse of information; contacts with third parties and lobbyists; awareness-raising, training and/or advice on integrity-related matters. The main positive measure taken to date was the introduction in 2003 of a system for the declaration of income and assets, applicable also to interests as from 2015. The supervision exercised so far by the Parliament itself has not been effective. As from 2015, a new independent body – the Committee for the Investigation of Declarations of Assets, CIDA is taking over the control of declarations. It was provided with guarantees of independence and it is important that it fulfils its duties in an effective and pro-active manner. Improvements in these various areas will not achieve their overall goal if more fundamental issues are not addressed in parallel. Greece needs to provide for adequate scrutiny when legislation is in the drafting/adoption stage and to adopt rules on additional forms of support provided to parliamentarians from outside parliament, which are consistent with the legislation on political financing and future rules on gifts and other benefits. Greece also needs to further review the system of immunities and to ensure parliamentarians are fully aware of their current and future obligations, including the legal implications of bribery offences.

By contrast, judges and prosecutors – who are part of the same professional body – are subject to career-related mechanisms, procedural rules and supervisory arrangements which prevent corruption. They are also subject to the declaration system now involving CIDA. That said, in their case too, the adoption of a code of conduct would help specify and mainstream the standards, and the development of the existing training provided by the National School for Judges would promote these further including through ongoing training. Judges and prosecutors are largely protected in their activity against undue interference,

especially through a model of justice based on self-management which involves several judicial and disciplinary councils composed of peers. But the situation of the most senior positions in court and the prosecution service needs to be improved since for instance the method for their selection and their term of tenure creates a dependence vis-à-vis the executive. For similar considerations, the procedure involving the special court which hears cases involving members of government needs to be reviewed. The justice system suffers from severe backlogs, which generate risks of undue interference; adequate guarantees against delays in the early stage of proceedings for instance are thus needed. More globally, the overall functioning of the justice system would need to be made more assessable, transparent and accountable through measures such as consolidated periodic reporting. The introduction of a long-awaited IT system would support data collection and new working methodologies.

## Hungary

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Hungary has been through substantial constitutional and legislative reforms in 2010-2012 and a new Constitution and new cardinal acts pertaining to central parts of public structures, including the legislature, the judiciary and the prosecution service have been adopted and enacted in a short period of time. This process has been subject to considerable attention in Hungary, but also amongst the international community (e.g. the Council of Europe, the European Union and the OSCE). A dialogue between the Hungarian authorities and the Council of Europe, to a large extent based on legal opinions of the Venice Commission, has focused on the legislative process as such and also the substance of the recent reforms of the judiciary and the prosecution system, which led to several positive changes.

More particularly, it is acknowledged that the legislative process is regulated in an adequate way and that it provides for openness and transparency as a main rule. Nevertheless, it would appear that the same process when applied in practice, in particular relating to the legislative reforms 2010-2012, has not always been guided by sufficient levels of transparency and consultation. Furthermore, third party involvement in this process is not perceived as being sufficiently transparent since there is no lobbying regulation at parliamentary level. These problems call for broad reflexions and decisive measures. Moreover, the report stresses the need to establish codes of ethics/conduct for members of parliament in order to complement existing regulations with guidance, particularly in situations where MPs are faced with various forms of conflicting interests; for example, in respect of gifts and other benefits offered which are currently insufficiently regulated. Furthermore, MPs ought to be obliged to report conflicts of interest as they occur

(*ad-hoc*) and the practical implementation of the obligation to submit asset declarations could well be further enhanced.

The judiciary has, ever since the transformation of the political system in Hungary in 1989-90, undergone important reforms to consolidate its independence and respect for the rule of law. Hungary was a pioneer among the new democracies in central and eastern Europe when its National Council of Justice was set up in the mid-1990s. With the judicial reforms 2010/2012 a new structure of the judiciary comprising yet another authority has been made responsible for judicial administration i.e. the National Judicial Office (NJO), headed by a President (PNJO) elected directly by Parliament. The extensive powers vested in the PNJO at the outset, have been reduced as a result of the dialogue between Hungary and the international community and a better balance between the powers of the PNJO and those of the National Judicial Council (NJC), which is a collective body, has been established. The need for further moves in this direction is stressed in the current report, in order to minimise potential risks of discretionary decisions; for example, in relation to appointment and promotion of judges. Moreover, a recently adopted Code of Ethics for judges is to be welcomed as an instrument that may hopefully evolve over time; it could be made more explicit and should be accompanied by dedicated in-service training.

The prosecution service in Hungary is an independent institution vested with pertinent powers to investigate and prosecute criminal cases; however, its mandate goes beyond that, as it includes a number of supervisory functions. This service is built on a strict hierarchical structure, allowing superior prosecutors (ultimately the Prosecutor General) to instruct subordinate prosecutors, to overrule their decisions and to re-distribute or take over cases. In such a system there is a need for adequate checks and balances in order to prevent the potential for malpractice and corruption and more could be done in this respect. Furthermore, the independence of the Prosecutor General from political influence would be clearer if this official could not be re-elected and, the current possibility to politically block the election of a new prosecutor general with a minority vote in Parliament, in which case the sitting prosecutor general will remain in office after the expiry of his/her mandate, ought to be discontinued for the same reason. Moreover, the disciplinary proceedings in respect of ordinary prosecutors would benefit from being made more transparent and connected to broader accountability. Superior prosecutors' decisions to move cases from one prosecutor to another ought to be guided by strict criteria and justifications.

The general need to deal with the situation in Hungary in relation to immunities is also stressed, i.e. that members of parliament, judges and prosecutors all

enjoy immunity in the strict sense (inviolability) in respect of all criminal offences, except for situations of "*in flagrante delicto*". Such privileges, ought to be reduced to the extent necessary for the functions of the officials concerned; they may otherwise hinder efficient corruption prevention in respect of these officials.

## Montenegro

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Constructive steps have been taken in recent years, upgrading the country's legislation to meet the commitments arising from its membership in the Council of Europe, as well as EU accession requirements. Despite the positive legislative changes introduced in the system, corruption continues to be an important concern in Montenegro, resulting in disquieting figures as to citizens' trust in some of their key institutions, notably the political class and the judiciary. The lack of effective investigations and successful convictions for certain types of crime (in particular, war and corruption-related crimes) as well as the sense of impunity for high-level officials, is a further impediment to public confidence in the system.

The Law on the Prevention of Conflicts of Interest (LPCI) is applicable to the different categories of professionals under review: parliamentarians, judges and prosecutors. The Commission for the Prevention of Conflicts of Interest is the body in charge of its implementation. Although the law contains good safeguards to prevent conflicts of interest, it lacks teeth, and repeated criticism has been expressed regarding the effective independence and enforcement capability of the Commission. It is foreseen that, as of 1 January 2016, the Agency for the Prevention of Corruption takes over integrity and anticorruption matters, including implementation of the conflicts of interest regime.

The Parliament in Montenegro has taken a positive approach in opening up its work and facilitating public access to information regarding the legislative process; the introduction of modern communication techniques has created new possibilities for capturing and reporting parliamentary proceedings (e.g. audio/video recording, live web streaming, parliament's own website, etc.). Likewise, practical measures have been implemented in recent years to improve interaction with civil society organisations and the public in general. An Anticorruption Committee, in charge of supervising the work of the State bodies in the area of the fight against organised crime and corruption, was established by Parliament in 2012. Work is ongoing in Parliament to further clarify procedural and integrity matters in house, including through a Law on Parliament, a Code of Ethics, an Integrity Plan and an amended Law on Lobbying. The content of the ethical and integrity questions could remain words on paper if not adequately communicated and instilled.

Furthermore, while the reinforcement of the integrity system in Parliament should primarily be oriented towards awareness-raising and internalisation of a parliamentary ethos, sanctions may be used as a last resort measure to enhance accountability and to preserve the credibility of the enforcement mechanisms available in Parliament.

As regards efficiency, accountability and transparency of the judiciary, some decisive steps have been taken in recent years. A reform of the judiciary started as early as in 2000; its latest update is articulated in the Strategy for the Reform of the Judiciary for the period 2014-2018. The courts have been reducing the backlog of cases. Transparency has been improved via dedicated websites on court organisation and decisions, as well as the appointment of media officers. The prosecution service regrettably suffers from higher opacity in its work and is frequently criticised for its lack of proactivity. A Special Prosecution Office for Organised Crime and Corruption has been created; it is reportedly aimed at improving capacity to deal with most serious crimes and high-level corruption.

Constitutional changes were adopted in July 2013 to reduce political influence on the appointment of high-level judicial officials through more transparent and merit-based procedures, as well as the introduction of qualified majorities and anti-deadlock mechanisms where the Parliament is involved. The Judicial and Prosecutorial Councils have in their hands a broad scope of responsibilities ranging from the selection, appointment, promotion, transfer, discipline and dismissal of judges and prosecutors. They consist of judicial and non-judicial members. The presidency of the different working groups of the respective Councils is given to non-judicial members appointed by Parliament. This casts doubt regarding the effective de-politicisation of the system, as originally intended by the reform, as well as the prevention of conflicts of interest when the same persons are involved in all decisive aspects of the judicial/prosecutorial profession.

Codes of ethics are in place for both prosecutors and judges, but more needs to be done to enhance integrity and accountability mechanisms within the judiciary. Although legislative reform has also been pursued to strengthen the discipline regime over judges and prosecutors, doubts remain as to the quality and effectiveness of the control performed over misconduct and conflicts of interest in the judiciary. This represents a challenge *per se* in the context of highly articulated personal and family relations in Montenegro and requires the development of more targeted guidance on integrity and conflict of interest prevention matters in the judiciary. The system of training of judges and prosecutors has been largely possible because of international assistance, but, starting 1 January 2015, the Judicial Training Centre has now been allocated a clear budget line for its activities.

With all these reforms underway, time and experience will test the effectiveness of the revamped legislative and institutional frameworks. GRECO is hopeful that the new features reported will improve the system significantly and that their operability will be consolidated through practice. This requires perseverance, a strong political will and a proactive approach by the professionals concerned. It is crucial that the momentum gained throughout the EU accession process constitutes a solid, stable and enforceable roadmap to fight corruption in the country and to secure institutional credibility.

## Portugal

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Corruption is seen as a problem by Portuguese society. Perceived levels of corruption declined between 2006 and 2009 (cf. Transparency International's Corruption Perception Index), rose slightly thereafter and have remained relatively stable since 2012.

In 2011, Portugal accepted an EU-IMF economic adjustment programme that included demands for structural reforms aimed at reducing public debt and red tape. As part of the programme, a reform conceived to raise the efficiency of the judicial system has been implemented since September 2014. It has involved an overhaul of the country's judicial map and resulted in cuts to judicial budget and staff. Some observers anticipated that certain other elements, namely the privatisation of state-owned assets and the re-negotiation of public-private partnerships would engender corruption risks due to the proximity of private and public interests.

A legislative framework and a number of institutions and tools intended to deter corruption in respect of the three professional groups under review are in place. These encompass advance and periodic declaration of conflicts of interest, a regime pertaining to incompatibilities and disqualifications, and asset disclosure (in the case of members of parliament). The various elements of the system are, however, disconnected, and the legal framework is fragmented, sometimes incoherent, and has not always been sufficiently thought through. The fragmentation is said to do little to mitigate the risks of corruption as it causes uncertainty – both for the public and for the three professional groups – as to the rules that apply. Above all, there is very little focus on corruption *prevention*.

Insufficient attention to the issues of integrity, accountability and transparency is inherent to the regimes that apply to the three professional groups. No rules on professional conduct have yet been established. Currently, in parliament the individual conscience of MPs is relied on, and within the judiciary only the general principles pertaining to the office of judge or prosecutor (and, on a subsidiary

basis, the principles governing civil servants) can be referred to. The accountability of MPs has been undermined by the too permissive conflict of interest regime and contentious incompatibilities rules which allow MPs to practise as lawyers. The perception that parliament's activities are only ostensibly transparent persists due to the lack of regulation of MPs' contacts with third parties and the insufficient openness of the law-making process to other stakeholders. As for judges and prosecutors, the concealing of certain details of the outcome of disciplinary procedures hinders their accountability as well as that of the judicial and prosecutorial councils.

Further contentious points, specific to each of the three professional categories have also come to light. The need to evaluate the effectiveness and reinvigorate the entire system for the prevention, disclosure, ascertainment and sanctioning of conflicts of interest with the Assembly is apparent. The procedure for the declaration of conflicts of interest and of incompatibilities and disqualifications requires streamlining, and oversight is to be strengthened. Moreover, for greater coherency, asset disclosure is to become an integral component of the policy for managing MPs' conflicts of interest. Various failings – including a lack of timely and in-depth monitoring – of the mechanism for disclosure and verification of MPs' assets will also need to be addressed. Last but not least, a review of the procedure for lifting the immunity of deputies of the regional legislative assemblies – which constitutes a barrier to prosecuting criminal acts, including corruption – is also suggested.

As for the judicial system, its vulnerability to undue political interference is significant due to the composition of the judicial councils responsible for the appointments, promotion and disciplinary action in the ordinary, administrative and tax courts. Also, the lack of financial autonomy of courts and of the Public Prosecution Service and the fact that the budget of a prosecutor's office forms part of that of the respective court (or a judicial county) to which it is attached is problematic and undermines the status of the judiciary as a separate state power and of the Prosecution Service as an autonomous body. Additionally, although the new judicial map was introduced in September 2014, neither the statute of judges nor the statute of prosecutors has been aligned to it. This has resulted *inter alia* in discordant regulation of the re-allocation of cases amongst judges and of the transfer of judges within district courts and, for prosecutors, in an erosion of the required strict hierarchical subordination.

The authorities are called upon to instil a clear corruption prevention perspective into the regulations pertaining to the three professional groups, to consolidate the existing legal framework, to reinforce, as appropriate, the powers, impartiality or effectiveness of the oversight institutions, and otherwise promote

a cohesive and systematic approach to corruption prevention so as to attain tangible results and sustained enforcement.

## Romania

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According to opinion polls, the level of perception of corruption in political institutions and judicial services remains at a relatively high level. Within the European Union, it is often one of the highest of the 27 countries surveyed. Media and civil society, but also prosecutorial bodies at regular intervals point to occurrences of misuse of powers and functions for personal benefit among MPs, judges and prosecutors. At the same time, criminal justice bodies – especially the National Anti-Corruption Directorate within the prosecutor's office – show unprecedented determination in combating corruption-related crimes affecting public institutions. Romania needs at present to undertake determined efforts to develop a more robust and effective system of prevention which would address problematic situations even before they result in criminal conduct. Romania has a tendency to adopt and pile up numerous rules and pieces of legislation dealing with integrity and the prevention of corruption which are often inconsistent or redundant, and do not necessarily address the various desirable policy elements.

As regards MPs, Romania is at an early stage of implementation of such preventive policies, starting with the legislative process, which needs to become more transparent and to limit the use of expedited procedures. Especially now that the EU-accession process, and the numerous and swift adjustments that inevitably required, is over. There is no code of conduct in place as yet and the existing rules on gifts and conflicts of interest do not properly reflect all the limitations in place in those areas (for instance, MPs may accept any gifts and other benefits which are not strictly related to protocol events). For similar reasons, the existing rules on incompatibilities are not effective in practice, and even where court decisions are rendered, it was reported that these are sometimes not complied with. There are also areas which are not subject to any safeguards or limitations: for instance when it comes to relations with third parties including lobbyists who may seek to influence the legislative work, or to post-mandate employment opportunities in for instance the business sector. On the positive side, Romania has a system in place for the declaration of income, assets and interests which can be seen as exemplary in various respects and which is under the supervision of the National Integrity Agency. The latter can be strengthened further through a more proactive approach and better data-processing capabilities. When it comes to enforcement, it is clear that the desirable changes in the above areas will need to be supported by additional awareness-raising and

training efforts for parliamentarians. Last but not least, Romania is expected to rapidly improve the system of immunity from prosecution, which has been a problematic area since GRECO's 1<sup>st</sup> evaluation round.

In contrast, judges and prosecutors – who form a unified body of magistrates – are subject to a career system and procedural rules which limit from the outset a number of risks for their integrity when it comes to incompatibilities, contacts with third persons and so on. That said, the conditions for the appointment and dismissal of some of the holders of top prosecutorial functions exposes them excessively to possible influence from the executive. The added value of the code of ethics adopted in 2005 appears to be limited, especially since it provides no concrete guidance, nor examples of how to deal with certain situations which could be problematic. Likewise, developing prevention implies that training and awareness-raising efforts should be increased. The conditions of service are sound overall, judges and prosecutors are subject to periodic appraisals and supervision is ensured by the Superior Council of Magistracy and the Judicial Inspectorate. These bodies need to be more responsive in real time to problems and risks which have been brought to light. For similar reasons, the role and effectiveness of those performing managerial functions at the head of courts and prosecution offices needs to be reinforced.

## Serbia

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Serbia has come a long way in creating a regulatory and institutional framework for fighting corruption, but much remains to be done to have the system work properly and to close the noticeable gap between the law and practice. Perceptions of corruption have been decreasing over the years but remain quite high.

Judicial reforms have been underway since 2000 when an entirely new judicial system was to be established in the wake of the country's democratic changes. The most recent reform launched in 2009 failed to achieve the goal of improving efficiency by changing the old court structure and redistributing workload between the overburdened urban and underused rural courts. In addition, it led to the unlawful *de facto* dismissal of a large number of judges and prosecutors who – following an appeal to the Constitutional Court – have in the meantime been reinstated. This process contributed to a lack of trust of both professionals and the larger public in the independence of the judiciary and prosecution service and in their self-governing bodies, the High Judicial Council and the State Prosecutorial Council. At present, it would appear that these branches of power are exposed to undue outside influence and pressure exerted by politicians and the media. Another reason for concern

with respect to the balance of state powers is the currently low profile of the National Assembly – the national parliament – which does not exercise proactive and meaningful control functions but mainly operates upon governmental initiatives which are, to a large extent, processed through urgent adoption procedures.

In particular, it is recommended that measures be taken to further improve the transparency of the parliamentary process; to strengthen the independence and role of the High Judicial Council and the State Prosecutorial Council; to amend the procedures for the recruitment and promotion of judges, court presidents and prosecutors, in particular by excluding the National Assembly from this process and ensuring merit-based recruitment; and to continue reforming the system of appraisal of judges' and prosecutors' performance, *inter alia*, by introducing more qualitative evaluation criteria.

Moreover, much more could be done to raise awareness among MPs, judges and prosecutors of questions of ethics and integrity and to provide them with adequate guidance on such matters. It is therefore recommended that a Code of Conduct for MPs, which is currently under preparation, be adopted, made easily accessible to the public and effectively implemented in practice; and, for all three categories of persons under review, that appropriate guidance on ethical questions be provided, in particular, by way of complementary written instructions, dedicated training of a practice-oriented nature and confidential counselling.

Regarding specific subject matters relevant to the prevention of corruption such as the regulation of conflicts of interest, incompatibilities and secondary activities, the acceptance of gifts and submission of asset declarations, a quite comprehensive legal framework is provided by the Law on the Anti-Corruption Agency which is applicable to all "officials" including MPs, judges and prosecutors. Implementation of this law is entrusted to the Anti-Corruption Agency which plays a key role in the prevention of corruption in Serbia. The Agency has recently prepared a draft law meant to replace this law in order to further strengthen its independence, competences and capacities and to address a number of specific shortcomings in the rules on the above-mentioned subject matters which currently hamper the effective application of the law. GRECO supports many of the proposals included in the draft law, which is currently being processed by a working group established by the Minister of Justice, and includes some complementary recommendations. *Inter alia*, it draws the conclusion that more attention needs to be devoted, in law and in practice, to the avoidance and management of conflicts of interest. In particular, with respect to MPs a tailor-made concept of conflicts of interest is needed which takes into

account the nature of parliamentary work, as well as an appropriate and enforceable mechanism for *ad hoc* declarations of interest by MPs.

To conclude, it is noteworthy that the government, which is decided to gear the country towards EU accession and to pursue a policy of zero tolerance of corruption, is engaged in an ambitious reform process. A comprehensive framework is provided by the National Anti-Corruption Strategy and the National Judicial Reform Strategy with the corresponding Action Plans, which address many of the most urgent challenges. Implementation of both strategies is currently underway and, among a number of measures initiated, a Commission has been set up to deal with the required amendments to the Constitution. That said, it is crucial that the necessary reforms be carried through in a timely manner; that they gain the support of a large spectrum of political forces and of civil society and that they bring about tangible and sustainable results.

## Turkey

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As has been concluded by GRECO in its previous reports, corruption has for a long period of time been a major problem in Turkey. The authorities have been, and are, fully aware of this and have implemented a number of reforms, some in partnership with international organisations such as the Council of Europe and the European Union. Many of the reforms have targeted legislation and institutional settings, often connected to the need to prevent corruption and similar phenomena. The 2010-2014 National Strategy and Action Plan is an example of the Government's intentions in this respect. However, it is clear that Turkey needs to further pursue reform efforts to prevent and curb corruption in the areas covered by the current report.

As far as members of parliament are concerned, the report indicates that a solid institutional framework within the Grand National Assembly of Turkey (GNAT) is in place. That said, more needs to be done in order to enhance the overall transparency of the legislative process in this Assembly. Public consultations on a regular basis would serve such an end and the time period for consultation within Parliament needs to be sufficiently long to allow all members of parliament time for reflection - as a necessary part of the democratic process - before draft bills are adopted. Moreover, there is a need to regulate various forms of conflicts of interest which may appear in the daily work of the members of parliament in the context of gifts and other advantages, contacts with third parties, including lobbyists, the holding of accessory activities which might have an impact on their official functions. To this end, it is recommended to develop a code of ethics pertinent to members of

parliament. The need to ensure that MPs disclose situations of personal conflicts of interests as they appear ("*ad-hoc*"), that the correctness of asset declarations submitted by MPs is verified by the authorities and that these are also subject to public scrutiny is also highlighted. The protection of MPs from being investigated and prosecuted through parliamentary immunity, including in respect of corruption offences (unless "*caught red handed*"), is widely perceived in Turkey as a major obstacle in bringing to justice MPs suspected of corruption, even if such immunity can be removed by the GNAT. The number of requests for the lifting of such parliamentary immunity in recent years is alarming and the situation calls for determined measures to ensure that parliamentary immunity does not hamper the possibilities to investigate, prosecute and adjudicate such offences.

It is concluded in the evaluation report that the judiciary in Turkey is not perceived to be sufficiently independent from the executive powers of the country, despite constitutional guarantees to that end. The need to strengthen its independence has been one of the main targets of judicial reform in Turkey for many years. The establishment of the High Council of Judges and Prosecutors (HCJP) as a self-governing body of the judiciary was an element to establish such independence and a constitutional reform in 2010, providing for stronger involvement of judges and prosecutors in that body, was a positive step at the time. However, public criticism in Turkey as well as by international organisations in 2014/2015 in respect of the use of disciplinary proceedings, including the dismissal of a number of members of the judiciary, has further triggered the debate concerning the role and the independence of the HCJP. There is a continued need to enhance the independence of the HCJP by reducing the potential influence of the executive power in this body. Furthermore, making the judiciary more responsible for the selection, recruitment and training of its own members would serve the same purpose. Guidelines in the form of ethical codes, taking into account the different functions of judges and prosecutors, would be useful instruments, providing guidance in respect of various situations of conflicting interests. Moreover, a dedicated oath for judges to demonstrate their obligation to adhere to fundamental constitutional principles of independence and impartiality is also recommended as a tool to safeguard judicial integrity. The report also highlights the importance of ensuring that evaluations of the performance of judges and prosecutors as well as disciplinary proceedings against them are free from undue influence. The security of tenure of judges needs to be considerably strengthened as a fundamental cornerstone of judicial independence. Many of the recommendations addressed to Turkey apply

both to judges and prosecutors as a consequence of their common organisational structure under the HCJP. That said, some recommendations point out the particular need also to respect the differences between the functions of judges and prosecutors, which, for example, call for separate codes of ethics and training taking into account the fundamental differences of these professions.

Finally, GRECO acknowledges that in April 2015, the Prime Minister of Turkey launched the *Judicial Reform Strategy* (2015-2019), with the aim of establishing a more reliable justice system, executing judicial services in an independent and impartial way and concluding trials within a reasonable time. This strategy appears particularly well-tuned and timely also to deal with a number of GRECO's concerns and recommendations.

# Impact on national legislation, practices and institutional set-ups

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**A** summary overview of the positive developments noted by GRECO during the course of the year when assessing the action taken by member States in response to GRECO's recommendations is given below.

## ■ 4<sup>th</sup> Evaluation Round

### ***Prevention of corruption in respect of members of parliament***

- ▶ adoption of a code of conduct for members of parliament (Estonia, Luxembourg);
- ▶ clarification of the meaning of conflict of interest and provision of guidance to the members of parliament on the interpretation and application of the related article of the Constitution (Finland);
- ▶ introduction of mandatory disclosure of the outside ties of members of parliament as well as of income received from additional activities (Finland); extension of the existing disclosure requirements and of the level of detail to be reported (Netherlands);
- ▶ lowering of certain thresholds of assets in order to provide broader transparency in the context of the relevant declarations made by MPs (Finland);
- ▶ introduction of supervisory and enforcement measures concerning the rules on conflicts of interest and on disclosure of outside ties by members of parliament (Finland);
- ▶ introduction of a general prohibition on gifts and other benefits related to an MP's functions - such as payment by a third party of an MP's travel, accommodation or subsistence expenses (Luxembourg);
- ▶ measures taken to clarify the accountability of staff members who are individually employed by parliamentarians (United Kingdom);
- ▶ introduction of a ban on parliamentarians entering into contracts with State authorities, during their mandate and for two years after their mandate (Latvia).

### ***Prevention of corruption in respect of Judges***

- ▶ introduction of a system of periodic quality assessments of judges' professional performance based on standardised and objective criteria (Estonia); introduction of specific background checks in the recruitment process for lay judges (Sweden);
- ▶ development of criteria for the selection and evaluation of judges, with the aim of enhancing the uniformity, predictability and transparency of these criteria (Slovenia);
- ▶ stepping up training activities on ethics, conflicts of interest, expected conduct and prevention measures for professional judges (Estonia, Sweden, United Kingdom) and lay judges (Sweden);
- ▶ adoption of a Code of Judicial Ethics and Integrity covering all judges (Slovenia);
- ▶ constitutional amendment regarding the Judicial Council's composition and introduction of the rule according to which half of its members are to be judges elected directly by their peers; introduction of measures to enhance transparency in the functioning of judicial self-governing bodies (Slovak Republic);
- ▶ strengthening the transparency of judicial work by enabling online access to the content of court rulings and open sessions (Latvia);
- ▶ development of a policy for preventing and managing conflicts of interest and corruption risks within the judiciary and enhancement of the enforcement and awareness of the Code of Ethics (Estonia).

### ***Prevention of corruption in respect of Prosecutors***

- ▶ adoption of a code of conduct for prosecutors (Estonia, Sweden);
- ▶ elaboration of measures for preventing and managing conflicts of interest and corruption risks within the prosecutorial service, notably by providing guidance and/or presenting practical examples of conflicts of interest and related matters (Estonia, Sweden);

- ▶ introduction of rules and guidelines on gifts for members of the prosecutorial service (Estonia);
- ▶ introduction of a system of periodic quality assessment of prosecutors' professional performance based on standardised and objective criteria (Estonia);
- ▶ elaboration of objective and transparent criteria for the promotion of prosecutors (Estonia);
- ▶ introduction of regular in-service training on ethics for prosecutors (Sweden, United Kingdom);
- ▶ transfer of responsibility for the prosecution service from the Ministry of the Interior to the Ministry of Justice, in order to minimise the risks of improper influence (Slovenia).
- ▶ development of general instructions on prosecution policy with particular regard to the use of discretion and case dismissals (Slovenia).
- ▶ strengthening legal persons' liability for corruption offences by introducing a corporate compliance statute (Spain).

#### **Theme II – Transparency of political party funding**

### **3<sup>rd</sup> Evaluation Round**

#### **Theme I - Incriminations**

- ▶ ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) (Andorra, Georgia, Hungary, Portugal);
- ▶ establishment of new criminal legislation concerning a number of corruption offences, various forms of bribery and trading in influence, which to a large extent is in compliance with the requirements of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191) (Ukraine);
- ▶ amended legislation in respect of corruption offences as defined by the Criminal Law Convention on Corruption (ETS 173) : e.g. accepting a promise of undue advantage (Czech Republic); granting of advantages to third party beneficiaries (Bulgaria);
- ▶ criminalisation of bribery committed by various public actors: foreign public officials, officials of international organisations (Spain); domestic jurors and arbitrators (Spain); foreign jurors and arbitrators (Bosnia and Herzegovina); domestic arbitrators (Hungary); foreign arbitrators (Bulgaria);
- ▶ reinforcement of the sanctions provided for in cases of trading in influence and/or bribery offences (Andorra, Ukraine);
- ▶ abolishment or revision of automatic exemptions from punishment for bribery in the public sector in cases of effective regret (Andorra; Georgia);
- ▶ amendments to the legislation on bribery in the private sector, in order to clearly cover the full range of persons who direct or work for private sector entities and the material elements of the offence, namely: direct/indirect commission, third party beneficiaries, breach of duties (Spain);
- ▶ adoption of a set of measures and actions to improve the effectiveness and efficiency of the judicial and law enforcement bodies in the fight against corruption (Bosnia and Herzegovina, Moldova);
- ▶ introduction for the first time of a systematised and comprehensive legal framework for the financing of political parties and election campaigns and the overall transparency of this process (Andorra, Malta);
- ▶ adoption of a revised legal framework for the financing of political parties and election campaigns, including transparency rules (Greece, Republic of Moldova, Romania, Spain, Ukraine);
- ▶ introduction of legislation aimed at increasing transparency of the financing of political parties and election campaigns, making public detailed records of expenditure and funding, including the nature and value of (cash and in-kind) donations, loans and any kind of financial assistance (Greece, Republic of Moldova, Ukraine);
- ▶ adoption of legislation aimed at improving the transparency of donations to political parties, by introducing a general requirement for payments to be made via the banking system (Andorra, Azerbaijan - partly, Greece, Republic of Moldova, Ukraine);
- ▶ prohibition of donations and loans from legal persons to political parties (Spain);
- ▶ introduction of measures to enhance transparency of loans granted to political parties, i.e. a prohibition on debt cancellation by credit institutions (Spain);
- ▶ elaboration of measures aiming to increase the transparency of the accounts of entities related to political parties or otherwise under their control (Greece, Republic of Moldova);
- ▶ introduction of a requirement on political parties to keep proper books and appropriate accounts of income and expenditure, including in connection with election campaigns, and provision of support to parties in complying with transparency regulations (Andorra, Malta);
- ▶ improvement of public access to financial reports concerning political parties and election campaigns (Greece, Ukraine);
- ▶ establishment of an independent mechanism for monitoring the financing of political parties and election campaigns (Andorra, Greece, Republic of Moldova);
- ▶ introduction of rules to enhance the effectiveness and the independence of supervision over political parties and election campaign financing (Greece; Romania; Spain);
- ▶ allocation of additional powers and resources (financial and personnel) to the body responsible for the control of political financing (Romania);

- ▶ introduction of rules on independent auditing of the financial activities of political parties (Andorra, Greece, Malta, Republic of Moldova, Romania, Ukraine);
  - ▶ introduction of measures to enhance the cooperation between the authorities responsible for the enforcement of political financing legislation and the competent law enforcement authorities (Greece, Romania);
  - ▶ revision of the statute of limitations for violations of the provisions on the financing of political parties and election campaigns (Romania);
  - ▶ introduction of effective sanctions and/or sanctioning mechanisms for violations of the rules on financing of political parties and election campaigns (Andorra, Republic of Moldova, Spain).
- **Joint 1<sup>st</sup> and 2<sup>nd</sup> Evaluation Rounds**
- ▶ establishment of the legal basis for a national anti-corruption body, distinct from the law-enforcement agencies (Ukraine);
  - ▶ amendment to the legislation on the Prosecution Service aimed at enhancing its independence from political influence and strengthening its role in pre-trial investigations and prosecutions (Ukraine);
  - ▶ adoption of amendments to public procurement law aiming at improving transparency, accountability and overall policy, in compliance with European standards (Ukraine);
  - ▶ introduction of legislation aimed at providing protection to persons who, in good faith, report suspicions of corruption in public administration - whistleblowers (Ukraine);
  - ▶ extension of the liability of legal persons for corruption offences in case of lack of supervision or control and establishment of a registration system for legal persons convicted for corruption offences (Ukraine);
  - ▶ introduction of measures to enhance the supervision over trustees and persons licensed to perform similar services (Liechtenstein).

# Working framework

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## Anti-corruption standards of the Council of Europe

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**T**he three unique treaties developed by the Council of Europe deal with corruption from the point of view of criminal, civil and administrative law. Corruption is seen not only as a threat to international business or to financial interests but to the values of democracy, human rights and the rule of law that are upheld by the Organisation. The **Criminal Law Convention on Corruption** (ETS 173) sets out common standards for corruption offences – among others, the establishment of criminal offences for active and passive bribery (as well as aiding and abetting in such offences) of domestic public officials, domestic public assemblies, foreign public officials, foreign public assemblies, members of international parliamentary assemblies and judges and officials of international courts; for active and passive bribery in the private sector and for trading in influence. Parties to the convention are required to provide for corporate liability, the protection of collaborators of justice and witnesses and to establish in respect of the above offences effective, proportionate and dissuasive sanctions. An **Additional Protocol** to ETS 173 (ETS 191) requires the establishment of criminal offences for active and passive bribery of domestic and foreign arbitrators and jurors.

The **Civil Law Convention on Corruption** (ETS 174) deals with compensation for damage, liability, contributory negligence, limitation periods, the validity of contracts, protection of employees, accounts and auditing, the acquisition of evidence, interim measures and international cooperation in relation to corruption defined as “requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof”.

Within GRECO, the same evaluation criteria and level of detailed scrutiny apply to states whether they have ratified these treaties or not. The Criminal Law Convention on Corruption (ETS 173) has been ratified by forty-five GRECO member States and the Civil Law Convention on Corruption (ETS 174) by thirty-five. Forty-one members are now bound by the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) which was ratified by Andorra, Belarus, Hungary and Portugal in 2015.

■ **Council of Europe Treaty Office:** [www.conventions.coe.int](http://www.conventions.coe.int)

Those treaties are complemented by the following legal instruments:

- ▶ **Twenty Guiding Principles** for the fight against Corruption (Committee of Ministers Resolution (97) 24)
- ▶ Recommendation on **Codes of Conduct for Public Officials** (including a model code) (Committee of Ministers recommendation to member States No. R(2000) 10)
- ▶ Recommendation on **Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns** (Committee of Ministers recommendation to member States Rec(2003)4)

Furthermore, the Committee of Ministers, and other Council of Europe bodies draw GRECO’s attention to anti-corruption components of other legal instruments and advisory texts that it can take into account in its work, for example:

- ▶ Convention on the **Manipulation of Sports Competitions** (CETS 215) which was opened for signature in September 2014
- ▶ Recommendation on the **Protection of Whistleblowers** (Committee of Ministers recommendation to member States CM/Rec(2014)7)
- ▶ Consultative Council of European Prosecutors (Rome Charter) Opinion on **European Norms and Principles concerning Prosecutors** (CCPE Opinion No.9)

- ▶ Consultative Council of European Judges Opinion on **The Position of the Judiciary and its Relations with other Powers of State in a Modern Democracy** (CCJE Opinion No.18)

## Membership

GRECO's membership today spans the whole European continent and also includes the United States of America.

### Members (forty-nine) by date of accession

Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Lithuania, Luxembourg, Romania, the Slovak Republic, Slovenia, Spain, Sweden (founding states – 1 May 1999)

Poland (date of accession: 20 May 1999), Hungary (9 July 1999), Georgia (16 September 1999), the United Kingdom (18 September 1999), Bosnia and Herzegovina (25 February 2000), Latvia (27 July 2000), Denmark (3 August 2000), the United States of America (20 September 2000), "the former Yugoslav Republic of Macedonia" (7 October 2000), Croatia (2 December 2000), Norway (6 January 2001), Albania (27 April 2001), Malta (11 May 2001), the Republic of Moldova (28 June 2001), the Netherlands (18 December 2001), Portugal (1 January 2002), the Czech Republic (9 February 2002), Serbia (1 April 2003), Turkey (1 January 2004), Armenia (20 January 2004), Azerbaijan (1 June 2004), Andorra (28 January 2005), Ukraine (1 January 2006), Montenegro (6 June 2006), Switzerland (1 July 2006), Austria (1 December 2006), the Russian Federation (1 February 2007), Italy (30 June 2007), Monaco (1 July 2007), Liechtenstein (1 January 2010), San Marino (13 August 2010), Belarus (1 July 2006 – effective participation as of 13 January 2011).

## Composition and structures

### Structures

- ▶ The Plenary – delegations of permanent representatives nominated by the authorities of each GRECO member State (see Appendix I)
- ▶ The Bureau – President, Vice-President and up to five representatives from the plenary
- ▶ The Statutory Committee – The Permanent Representatives to the Council of Europe of member States of the Organisation (Committee of Ministers), as well as specially designated representatives of GRECO member States that are not members of the Council of Europe
- ▶ Evaluation Teams – chosen from a pool of evaluators nominated by each member state

### Observers

The granting of observer status gives other international organisations access to the work of the Plenary and provides a formal avenue for consultation and coordination.

- ▶ International Anti-Corruption Academy (IACA)
- ▶ Organisation for Economic Co-operation and Development (OECD)
- ▶ Organization of American States (OAS)
- ▶ United Nations, represented by the United Nations Office on Drugs and Crime (UNODC)

### Other Council of Europe bodies invited to designate a representative

- ▶ Council of Europe Development Bank (CEB)
- ▶ European Committee on Crime Problems (CDPC)
- ▶ European Committee on Legal Co-operation (CDCJ)
- ▶ Parliamentary Assembly of the Council of Europe (PACE)

## Methodology – Evaluation

Teams of evaluators collect information on which to base their analysis and recommendations through a

questionnaire which is carefully designed for each evaluation round as well as any other pertinent sources; they then test their assumptions and solicit further information during on-site evaluation visits

where they meet with key domestic players. The visit also includes talks – that are not observed by the authorities - with representatives of civil society, notably NGOs and the media, to gain an insight into concerns and perceptions. That different perspective can be shared and tested while on site. In the current 4<sup>th</sup> Evaluation Round, discussions are generally held with:

- ▶ parliamentarians, political parties (irrespective of whether they have a seat in parliament) and parliamentary committees
- ▶ special parliamentary bodies and administrative services
- ▶ departments and bodies dealing with regulations, professional standards, career and oversight of judges and prosecutors
- ▶ judges (including non-professional judges) and prosecutors from all court instances
- ▶ court and prosecution administrative services (caseload management and quality/performance checks)
- ▶ investigating judges and their administrative services
- ▶ councils for the judiciary and other oversight bodies
- ▶ complaints bodies/ombudsman
- ▶ training institutions
- ▶ anti-corruption agencies
- ▶ research institutions and academics
- ▶ representatives of the business community
- ▶ international technical cooperation providers present in certain countries
- ▶ associations/unions of the judicial and legal professions
- ▶ lobbyists
- ▶ NGOs (including national chapters/representatives of Transparency International (TI) and the

Global Organisation of Parliamentarians against Corruption (GOPAC))

- ▶ the media

A consolidated draft evaluation report that takes the comments of the member State and the positions taken by the evaluation team into consideration is drawn up by the Secretariat and submitted for scrutiny by the Plenary. During the reading of the draft, it is not unusual for the Plenary to challenge the assumptions or conclusions of the evaluation team and country delegation and to seek any necessary clarifications. The report is revised in that light before its adoption. The evaluation reports adopted contain a wealth of information on national set-ups and highlight both achievements and shortcomings. Recommendations issued by GRECO will in certain areas be similar from country to country but will often also result from careful tailoring to the national profile.

### Methodology – Compliance

Measures taken in response to GRECO recommendations and progress in implementation are assessed under compliance procedures that are conducted along similar lines to evaluation procedures resulting in reports that have been prepared in consultation with rapporteur countries and examined by the plenary. In the first of two main phases a compliance report is adopted which assesses measures taken by each state within the 18 months following an evaluation. If necessary, assessments are repeated, following a further implementation period of 18 months, in an addendum to the compliance report (1<sup>st</sup> and 2<sup>nd</sup> Round compliance procedures) or a second compliance report (3<sup>rd</sup> and 4<sup>th</sup> Round compliance procedures). Intermediate or additional reporting duties apply if GRECO considers that additional information is required or the response to a set of recommendations has been “globally unsatisfactory”.

#### **Rule 30 – Rules of Procedure**

1. Members of GRECO shall comply with the recommendations contained in the evaluation report and implement them fully, within the time limit set by GRECO.
2. In conformity with article 15, paragraph 6, of the Statute members shall address to GRECO a situation report (hereinafter “RS-report”) indicating the measures taken to follow the recommendations in the evaluation report. GRECO will examine these reports and decide whether or not the recommendations have been complied with.

### Enhancing compliance

When the performance of a member state is categorised as “globally unsatisfactory”, Rule 32 procedures

are applied in order to enhance prospects for greater compliance. The organisation of a high-level mission (Rule 32, paragraph 2(iii)) is contemplated in persistent cases.

## Rule 32 – Rules of Procedure

1. Any action in respect of non-complying members shall be guided by the following principles :
  - equality of treatment between GRECO members;
  - a proportionate approach for dealing with non-complying members;
  - approval by the Plenary of the measures to be taken, whilst allowing for some flexibility regarding their application and timing.
2. The procedure for dealing with non-complying members is as follows:
  - i. GRECO shall require the head of delegation of the non-complying member to provide a report or regular reports on its progress in implementing the relevant recommendations within a fixed time-frame.
  - ii. If the member concerned is still found to be in non-compliance with the recommendations after the application of paragraph 2 (i) GRECO shall apply one or several of the following measures:
    - a. the President of GRECO sending a letter, with a copy to the President of the Statutory Committee, to the Head of Delegation concerned, drawing his/her attention to non-compliance with the relevant recommendations;
    - b. GRECO inviting the President of the Statutory Committee to send a letter to the Permanent Representative to the Council of Europe of the member concerned, drawing his/her attention to non-compliance with the relevant recommendations;
    - c. GRECO inviting the Secretary General of the Council of Europe to send a letter to the Minister of Foreign Affairs of the member State concerned, drawing his/her attention to non-compliance with the relevant recommendations.
  - iii. At any stage of the non-compliance procedure, GRECO may request the member concerned to receive a high-level mission (including the President and the Executive Secretary of GRECO, the Director General, Human Rights and Rule of Law and selected Heads of delegation) with a view to reinforcing the importance of complying with the relevant recommendations.
  - iv. Without prejudice to Rule 33, GRECO may terminate the procedure in respect of a non-complying member after due consideration of the effect of the measures taken pursuant to paragraphs 2 i, ii and iii and the duration of the procedure. In this case, GRECO shall publish a declaration of non-compliance along with a record of the action taken by the member concerned in response to the recommendations issued in the mutual evaluation report.

## Evaluation Rounds

GRECO's monitoring work is organised in rounds. Each has its own thematic scope and makes reference to a range of Council of Europe standard-setting texts of pertinence to the issues examined.

### 4<sup>th</sup> Evaluation Round (launched on 1 January 2012)

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

- ▶ Ethical principles and rules of conduct
- ▶ Conflicts of interest
- ▶ Recruitment, career and conditions of service (judges and prosecutors)
- ▶ Transparency of the legislative process (members of parliament)
- ▶ Remuneration and economic benefits (members of parliament)
- ▶ Prohibition or restriction of certain activities
- ▶ Declaration of assets, income, liabilities and interests
- ▶ Supervision and enforcement of rules and regulations
- ▶ Advice, training and awareness

### 3<sup>rd</sup> Evaluation Round (1 January 2007 - 31 December 2011)

*Theme I: Incriminations*

- ▶ Essential concepts to be captured in the definition of passive and active bribery offences as well as trading in influence
- ▶ Limitation periods
- ▶ Jurisdiction
- ▶ Special defences

*Theme II: Political funding*

- ▶ Transparency of books and accounts of political parties and election campaigns
- ▶ Monitoring of party and campaign funding
- ▶ Enforcement of the relevant funding rules

### 2<sup>nd</sup> Evaluation Round (1 January 2003 - 31 December 2006)

- ▶ Identification, seizure and confiscation of corruption proceeds
- ▶ Public administration and corruption (auditing systems, conflicts of interest, reporting of corruption and whistleblower protection)

- ▶ Prevention of legal persons being used as shields for corruption
- ▶ Fiscal and financial legislation to counter corruption
- ▶ Links between corruption, organised crime and money laundering.

■ **1<sup>st</sup> Evaluation Round** (1 January 2000 - 31 December 2002)

- ▶ Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption
- ▶ Extent and scope of immunities from criminal liability.

Members that join GRECO after the close of an evaluation round undergo evaluations on the themes of previous rounds before joining the current one, starting with the first two rounds that are restructured into *Joint 1<sup>st</sup> and 2<sup>nd</sup> Round Evaluations*. GRECO's most recent

members – Belarus, Liechtenstein and San Marino underwent evaluation in the 3<sup>rd</sup> Round in 2015.

### **Publication of reports**

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Raising awareness of GRECO's findings across society prompts domestic debate and support for the implementation of its recommendations. The long-standing practice whereby GRECO member States – with rare exceptions - lift the confidentiality of reports shortly after their adoption and translate them into national languages goes well beyond what is provided for in the Rules of Procedure. The release of a report for publication is coordinated with the member state concerned and the Directorate of Communications of the Council of Europe to maximise media attention and as a result domestic media coverage is in most cases extensive.

# A new evaluation round

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In October 2015, GRECO decided to devote its 5<sup>th</sup> Evaluation Round which will be launched in 2017 to *Corruption prevention and promoting integrity in central governments (top executive posts) and law enforcement agencies*. Directing its attention to central government constitutes a logical extension to the 4<sup>th</sup> Evaluation Round with its implications for shaping citizens' attitudes vis-à-vis their political institutions and democracy in general, and the specific risk factors involved in the work of law enforcement agencies also warrant careful consideration.

In December, the Plenary adopted the terms of reference of the working party tasked with preparing the draft questionnaire and other proposals related to the 5<sup>th</sup> Evaluation Round – its work will be carried out in 2016. The Plenary will be regularly informed of progress and will also have an opportunity to comment at an early stage of the preparatory work – notably with respect to the agencies and functions to be included in the scope of the evaluations, the standards and reference texts from which inspiration could be drawn, and the extent to which elements of previous questionnaires might be included.

# News from member states

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The plenary (Item 4 – Topical developments/ events) also serves as a forum for member States to share information on issues and initiatives on national agendas outside the formal reporting cycles. Examples are given below.

## Albania

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- ▶ The National Anti-Corruption Strategy 2015-2020 and Action Plan for 2015-2017 were adopted. National institutions, NGOs and the business community were among those consulted in the process. Regular implementation monitoring and annual up-dates of the Action Plan are provided for. A National Consultative Forum to monitor anti-corruption policies in which civil society representatives participate will also be set up.
- ▶ A draft Whistleblower Protection Act was drawn up. It defines the scope of the law with respect to corruption-related offences, delineates the competences of the internal mechanisms, identifies which body should serve as the external reporting mechanism and stipulates how the protection of whistleblowers is to be ensured.
- ▶ A single one-stop portal for the anonymous reporting of acts of corruption in the public institutions ([www.stopkorrupsionit.al](http://www.stopkorrupsionit.al)) was launched. The institution concerned is to follow up on reports within 30 working days and an operation unit monitors implementation of the service level, follow-up given to reports and informs users of the status of their case.
- ▶ An SMS feedback mechanism was introduced in hospitals and real estate registration offices to collect the views of citizens on the quality of those public services and to allow them to report any bribes requested by public officials.

## Bosnia and Herzegovina

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- ▶ Parliament approved the composition of an interdepartmental working group for drafting

amendments to the Law on Financing of Political Parties to bring it into line with GRECO recommendations not yet implemented.

- ▶ Strategic objective 3 of the Anti-Corruption Strategy adopted for 2015-2016: improvement, effectiveness and efficiency of the judicial institutions and law enforcement bodies in the area of the fight against corruption ties in closely with the 4<sup>th</sup> Evaluation Round.

## Bulgaria

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- ▶ Draft amendments to the Constitution that foresee dividing the Supreme Judicial Council (SJC) into a judicial and a prosecutorial chamber to deal with recruitment and disciplinary issues, and giving responsibility to the Inspectorate of the SJC for checking and verifying asset declarations, and investigating situations of conflict of interest were before parliament. They take account of recommendations issued by GRECO, the European Commission within the Cooperation and Verification Mechanism, as well as an Opinion of the Venice Commission.

## Croatia

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- ▶ The Anti-Corruption Strategy 2015-2020 set horizontal objectives with respect to integrity in the political system and the national administration, including enhancing the transparency of election campaign financing, regulation of referenda campaigns, and of lobbying. Local and regional government, public procurement, state-owned companies and conflict of interest, access to information and the role of civil society, the public and the media in the fight against corruption are also included.
- ▶ Under specific goals for the judiciary, the Strategy calls notably for the proactive application of ethical standards and the management of conflict of interest, improvements to the system for verifying asset declarations made by judicial officials, and setting up a system for the notification of corrupt conduct, and regulating the protection of whistleblowers.

## Denmark

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- ▶ In the context of a case of match fixing via a betting operator in Macao it was discovered that significant sums of money were being gambled even on third league – amateur – football matches in Denmark. A proposal was submitted to parliament by the Minister of Culture to amend the Law on the Ban on Doping in Sport, renaming it to the Law on Integrity in Sport. Two new articles would be included. One would impose on certain sports associations a duty to establish and enforce rules to fight the manipulation of sports matches or have their state subsidies revoked. The other would replicate provisions on bribery and would be applied only in cases where the more stringent criminal law provisions (e.g. under the Criminal Code fraud carries a sentence of up to 8 years' imprisonment) do not apply.
- ▶ The government-appointed Committee of experts on the Transparency of Party Funding, tasked with reviewing the rules on party funding and drawing up models for possible future regulation of public and private funding of political parties finalised its report.

## Georgia

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- ▶ The government pursued work on a stand-alone Freedom of Information Act.
- ▶ A new tool was developed by the Anti-Corruption Council to monitor and evaluate implementation of the A-C Strategy and related 2015-2016 Action Plan (developed in consultation with civil society, the business sector and international organisations).
- ▶ A process for the electronic monitoring of asset declarations of public officials aimed primarily at improving transparency and public trust, preventing conflicts of interest and promoting integrity within public institutions was being developed.
- ▶ The legal definition of a whistleblower – which previously covered only former and active public officials – was revised to cover any person who informs the authorities of a breach of law or of a Code of Ethics by a civil servant which is or may be detrimental to public interests or the reputation of public institutions.
- ▶ Amendments to the Law on the Prosecution Service provided for the introduction of three new institutions: the Prosecutorial Council, the Conference of Prosecutors and the Special (ad hoc) Prosecutor. Appointment and dismissal procedures in the Office of the Chief Prosecutor were substantially revised and a specialised Anti-Corruption Unit was established within the Chief Prosecutor's Office.
- ▶ The third stage of the reform of the judiciary - enhancing disciplinary proceedings and increasing and strengthening the individual role of judges - was underway.

## Germany

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- ▶ Draft legislation to establish a special offence of bribery in the health care sector – to cover self-employed medical practitioners, who are neither public officials nor agents of public health care institutions and, therefore, not covered by legal provisions on public or private sector bribery - was under preparation to prohibit them from accepting any advantage for prescribing/dispensing medication or other medical products, or for referring patients to specific health care providers. The medication or treatment prescribed by those self-employed practitioners is paid for from the public health care scheme.
- ▶ The Federal Cabinet adopted a draft law to amend the Act governing the Legal Status of Members of the Federal Government and the Act governing the Legal Status of Parliamentary State Secretaries (the "Legal Waiting Period Act") to establish a transparent procedure for introducing notification duties (intention to enter employment outside the public sector within a period of 18 months) and the possibility to issue an employment ban for a "waiting period" at the end of a term in office when a conflict of interests is a possibility and the public interest might be compromised. The decision to impose a waiting period would be taken by the Federal Government based on the recommendation of an advisory body and a transitional allowance would be received during that period.

## Greece

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- ▶ The Law on auditing the financing of political parties and elected members of parliament and Greek members of the European Parliament (entry into force on 1 January) established a system of financial control by the Audit Committee. All income and expenditure of parties or coalitions of parties is to move through one bank account (for candidates), or up to three accounts (for political parties). Holding other bank accounts, within or outside Greek territory, is prohibited. Strict private funding limits apply. Penal sanctions will be accompanied by administrative sanctions such as deprivation of parliamentary allowances. Public scrutiny of the whole system is provided for.

## Hungary

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- ▶ Responsibility was attributed to the Ministry of the Interior for both the prevention (including work carried out in the framework of GRECO) and law enforcement sides of the fight against corruption. A Department for Corruption Prevention was established in the National Protective Service (NPS) – its main responsibility is preventing and detecting corruption within the police ([www.nvsz.hu/en/activities](http://www.nvsz.hu/en/activities)). Its permanent staff supports the

integrity advisors' network, advises administrative bodies on integrity and corruption prevention issues, and participates in the formulation of the National Corruption Prevention Strategy and coordination of its implementation.

## Ireland

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- ▶ The programme for government included further work on the Judicial Appointments Bill – based on a review by the Minister of Justice and Equality of the operation of the judicial appointment system to ensure that it reflects current best practices, is open, transparent and accountable, and promotes diversity. Regard would be had to the comprehensive range of views expressed during the 2014 public consultation process and to full engagement with stakeholders.
- ▶ The Regulation of Lobbying Act 2015 entered into force. It stipulates that the information on the identity of those who communicate with government and senior civil and public servants on public policy matters is to be made public. The appointment of a Head of Lobbying Regulation and mandatory web-based registration by anyone engaged in lobbying is provided for. Registrants are to make returns three times a year. [www.lobbying.ie](http://www.lobbying.ie)

## Italy

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- ▶ Law no. 69 (entry into force on 14 June 2015) raised 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 another 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 is increased. The scope of application of the accessory penalty of termination of public employment is also broadened. For serious offences against the public administration, 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 successful strategy in the fight against the mafia, the law introduced a special mitigating circumstance by which a sentence 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, to identify the perpetrator(s) or to seize the proceeds (or other advantages) of corruption.
- ▶ An obligation is placed on the prosecutor to inform the National Anti-Corruption Authority (ANAC) of

any step in criminal proceedings that reveals an offence by an official against the public administration. False accounting – a minor offence since 2002 – is established as a criminal offence under the law and carries penalties of 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. That category of penalty allows 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.

- ▶ Law no. 68 on crimes against the environment (entry into force on 14 June 2015) introduced a special aggravating circumstance for fraud or corruption aimed at perpetrating or concealing environmental offences. It also provides for a particularly severe aggravating circumstance – conspiring to commit an environmental offence – for public officials or staff involved in issuing licences, or inspections.
- ▶ Unifying the powers of the authority responsible for the supervision of public tenders (AVCP) with those of the ANAC laid the grounds for more effective regulation and oversight by the ANAC which exercises regulatory power through the adoption of guidelines, supervisory power through the adoption of advisory opinions, control of the transparency obligations incumbent on the public administration through the adoption of orders, and deep supervision of procedures and enforcement. If infringements are suspected the ANAC can request the opening of legal proceedings and advise the local prefect (*prefetto*) to put businesses into compulsory administration.

## Latvia

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- ▶ The Corruption Sub-committee of the Saeima (parliament) decided that a text regulating lobbying will be drafted once a definition of lobbying has been introduced into the State Administration Structure Law. The Judicial Committee would examine draft amendments to the Rules of Procedure of the Saeima aimed at granting a proactive role to the Mandate, Ethics and Submissions Committee for the opening of cases in response to alleged violations of the Code of Ethics. Amendments to the Constitution and the Rules of Procedure of the Saeima that foresee abolishing the administrative immunity of parliamentarians were being drafted.
- ▶ Amendments to the Law on Judicial Power aimed at strengthening the role of the Judicial Council in decision making on appointments, reappointments and career progression within the judiciary were due to be examined by the government. Support under an EU programme would fund a comparative analysis of judicial codes of ethics from a number

of countries to be used to elaborate proposals for improving the Code of Ethics for judges in Latvia.

- ▶ In December, the government adopted urgent draft amendments to the Law on the Corruption Prevention and Combating Bureau (KNAB) which seek to re-define the framework for relations between KNAB and the Prime Minister and do not prohibit the Prime Minister from overruling decisions taken by the Director of KNAB in the field of his/her principal functions such as supervision of political party funding. On the equally contentious issue of the conditions for dismissal of the Director of KNAB, the amendments include a number of broad criteria such as lack of loyalty; loyalty to whom however is not defined and could be interpreted, for example, as being loyalty to a political party, or to the Prime Minister. KNAB will continue to speak out against the amendments on the grounds that they are likely to weaken anti-corruption policy and would not strengthen the KNAB's independence from political interference - issues that have been addressed in recommendations to Latvia from GRECO and the OECD.

### Lithuania

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- ▶ A preliminary budget of around 20 million Euros was identified for the implementation of the new ten-year Anti-Corruption Strategy. Not only its cost, but also its potential economic benefits are to be analysed. Development of e-governance is a key element.

### Luxembourg

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- ▶ Ethical rules for the *Conseil d'Etat*, approved by a Grand Ducal regulation on 22 February, focus on concepts of confidentiality, integrity (with direct reference to Article 246 of the Penal Code on passive corruption), independence (in terms of impartiality in respect of any pressure or exertion of influence from outside) and exactitude (in terms of diligence and readiness).

### Republic of Moldova

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- ▶ Legislation on the financing of political parties and election campaigns entered into force on 14 April. Responsibility and the requisite means were allocated to the Permanent Electoral Authority to verify party accounts and to notify the criminal prosecution authorities of infringements. A regime of penalties, fines and criminal sanctions is provided for.

### Monaco

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- ▶ Under provisions of the Penal Code previously modified in response to recommendations issued by GRECO, a criminal investigation had been opened

into a public administration official suspected of corruption and falsification of records in the context of a public procurement procedure. The media attention the case had attracted could potentially have a preventive and dissuasive effect in a State of such a small size.

### Montenegro

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- ▶ The law providing for the establishment of the Anti-Corruption Agency was adopted and work on the related rules, regulations and internal acts, design of its IT system and securing premises was being carried out in partnership with the European Commission, other international organisations and counterparts and experts from other countries.

### Netherlands

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- ▶ Increased attention – in parliament and in the media – to the question of integrity had led to a number of cases where members of parliament had had to relinquish their seat.

### Romania

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- ▶ Parliament adopted the Law establishing an assets recovery and assets management agency – a dedicated body that will apply measures to manage seized assets before a final court decision and for the social re-use of seized and confiscated assets. It will also keep a register, exchange data and information with similar agencies in Europe and play a role in the dissemination of best practices.
- ▶ A draft law was prepared to extend the attributes of the National Integrity Agency (NIA) by setting up an electronic system (PREVENT) that integrates various databases into an environment that performs cross-referencing. It will allow NIA inspectors play an active role in the screening of public tender procedures – worth some 15 billion Euros in Romania – and to issue a red flag integrity alert to contracting authorities when there is a risk of a conflict of interests, and to initiate investigations.
- ▶ The Law on the financing of political parties entered into force.
- ▶ A study of perceptions based on the experiences of over 300 offenders serving sentences for corruption – “Offenders on causes and consequences of corruption: a study of corruption in Romania” - was carried out. The findings will be referred to for future policy making.

### Russian Federation

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- ▶ Under the system for financial accountability of public officials, the serious offence of false declaration was transformed into a minor offence in

cases where a purely technical mistake has been made. Expenditure declarations (established in legislation in place since 2012) were combined with income, asset and liabilities declarations. The part on expenditure is to be filed only if expenditure exceeds income (including that of a spouse) over the previous three years. The prosecution can file charges if a declarant fails to prove the legal origin of the income spent.

## Serbia

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- ▶ The Ministry of Justice formed a working group to examine the draft New Model Law on the Anti-corruption Agency (ACA) drawn up by the ACA which is based on the practical experience of the agency and adheres to international standards and recommendations.

## Slovak Republic

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- ▶ Pursuant to the Law on Criminal Liability of Legal Persons - a *lex specialis* in relation to the Criminal Code, legal persons are liable for the criminal offences of corruption (active and passive), trading in influence and money laundering. The State and its bodies, other States, international organisations, municipalities, etc. cannot be held liable. However, immunity does not apply to legal persons in which the State holds a majority share if the offence is committed through an intermediary, in which case both the intermediary and the legal person are liable. The liability of the legal successor of a legal person is also regulated. An effective regret defence can be invoked by legal persons but is explicitly excluded in corruption cases. Penalties include a ban on receiving subsidies and subventions, aid and support from EU funds, participating in public tenders. Common proceedings against the legal and natural person are provided for if the charges relate to each other and as long as they would not hinder closing proceedings in due time. Provision is made for granting mutual legal assistance in cases against legal persons. The legal person as defendant will be subject to the full range of procedural rights pertaining to criminal proceedings - practice will show what the implications of that strengthened position might be. Requirements principally of the OECD are reflected in the new legislation.

## Slovenia

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- ▶ New legislation paved the way for implementation of GRECO recommendations for the prevention of corruption in respect of judges and prosecutors.
- ▶ Amendments to the Integrity and Prevention of Corruption Act were being prepared in order to provide a clearer procedural framework – e.g. for

its work related to the supervision of asset declarations. No influence on the status of the Commission for the Prevention of Corruption (CPC) as an independent State body is intended.

- ▶ The conditions for publishing data via the web application - *Supervisor* – set up by the CPC to provide easy public access to financial transactions from the records of the entire public sector - were being reviewed by the Information Commissioner in the light of data protection legislation.
- ▶ A decision by the Constitutional Court puts additional pressure on the judiciary with respect to the standards of proof required in cases that involve accepting/giving the promise of a bribe - indirect evidence (for example, cash flow) is not sufficient.

## Spain

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- ▶ A recent Royal Decree (948/2015) on the rules on the Office dealing with the proceeds of corruption demonstrates the continued resolve of the government to tackle corruption.
- ▶ The Act on the Economic Activity of Political Parties, establishing a criminal offence of illegal funding was adopted.
- ▶ The amended Criminal Code that entered into force in July stipulates that corporate liability is incurred if the offence is committed for/on behalf of the corporate entity and to its benefit by its legal representatives and *de facto/de jure* administrators, contracted workers or employees carrying out corporate activities, and as a result of a lack of due supervision by the entity. Businesses are reviewing and adapting their corporate compliance programmes as a result as liability can be waived if an organisational and management model suited to preventing or reducing the risk of criminal offences is implemented. Responsibility for oversight is to be given to an autonomous body, or a body within the corporate entity for small and medium-sized companies. Cooperation by the corporate entity in clarifying a case may serve as a mitigating circumstance. Certain questions of interpretation, notably with regard to the doctrine of criminal vicarious liability where the natural person responsible within the entity is not identified, will be subject to clarification through case law. Even though not all penalties apply to public corporations implementing public policies or providing services of general economic interest, if a court finds that such a corporation was set up specifically with the intention of avoiding criminal liability, the full of range of penalties can be applied.

## Switzerland

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- ▶ Criminal proceedings involving the world of sport had provided a good illustration of the shortcomings

of legislation on private sector corruption that only covers business activities. Suspected corruption involving FIFA in connection with the allocation of Football World Cup tournaments (not a business activity) had had to be examined with reference to criminal mismanagement and money laundering offences, not bribery in the private sector. As a consequence, Switzerland recently amended its provisions on corruption, which will – *inter alia* – also cover such cases in future. As the assignment of media and marketing rights do constitute a business activity, and corrupt influence in such cases is a form of unfair competition, Switzerland already had the legal basis (fulfilment of the dual criminality requirement as prosecution pursuant to the private sector corruption provisions would have been possible) for granting extradition and mutual legal assistance requests from the United States of America in the context of investigations into FIFA officials based in Zurich.

### “The former Yugoslav Republic of Macedonia”

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- ▶ An agreement, facilitated by the international community, was concluded between all political parties to schedule parliamentary elections in April 2016 and to establish a special prosecutor and team - equipped with a dedicated budget, human resources and premises - to deal with prosecutions in the context of allegations of involvement of high-level politicians in corruption that stemmed from wiretapped conversations illegally obtained and made public by the main opposition political party, according to the Law on public prosecution of cases related to and arising from the content of the unauthorised interception of communications.

### Turkey

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- ▶ Disciplinary proceedings against a number of judges and prosecutors had attracted the attention of the media. The allegations against those concerned - for example, of bribery, undue influence, unlawful seizure of property and interception of phone conversations - were serious. Disciplinary action is carried out under the sole authority of the High Council of Judges and Prosecutors (HCJP), an independent body provided for in the Constitution, composed of twenty-two members (predominantly senior judges and prosecutors) sitting in three chambers, each composed of seven members. According to the Turkish authorities, 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 and access to effect administrative and judicial remedies.

### Ukraine

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- ▶ In July, a Selection Panel for designating future members of the National Agency for Prevention of Corruption (NAPC) composed *inter alia* of four representatives of civil society organisations delegated by the civil society nomination meeting of 17 May 2015 was set up by the government. However, certain civil society bodies contested the results of that meeting on the grounds that some did not conform to the criteria for selection. Successful mediation by the Ministry of Justice in cooperation with the UNDP and the EU delegation in Ukraine resulted in an agreement to re-run the civil society nomination process on the basis of a revised Regulation.
- ▶ By September, the eight member Selection Panel composed of four from the civil society sector, a representative of the Verkhovna Rada, a deputy minister, a representative of the President of the Cabinet of Ministers, and the Head of the National Agency for the Civil Service was established and a first round screening of 53 candidates was carried out. The 20 candidates retained would undergo a special screening process and five would be chosen and recommended to the government for nomination to the NAPC.

### United Kingdom

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- ▶ An up-dated Guide and Code of Conduct for MPs was implemented taking account of GRECO recommendations related to the provision of clear guidance, the acceptance of gifts and reporting thresholds.

### United States of America

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- ▶ In a number of States task forces set up by the Federal Government connect federal agencies with various State and local agencies to target specifically public sector corruption. The task force format solves a number of pragmatic issues by co-locating State, federal and local prosecutors and police. The number of people assigned to investigations is increased and results in a better understanding of who the principal actors or decision makers might be and how best to obtain pertinent records. It also sends a political message to the public that conveys a commitment to accountability. It provides additional resources - for example, State and local police can be paid overtime through federal funds. The often more rigorous federal asset

forfeiture programme can be brought to bear. As the US system is driven by an “opportunity” theory, prosecutors are able to draw on a wider range of statutes when choosing which charges to bring and how best to secure a conviction.

- ▶ An example of how the use that is made of various statutes (e.g. statutes on wire fraud, mail fraud; money laundering, etc.) forms the functional

equivalency of a free-standing private bribery statute can be seen in the context of the FIFA indictments where the document prepared by the prosecution not only includes the indictment but also the many documents termed “informations” to which individual defendants have pled guilty (accessible on the website of the New York Times by searching “FIFA indictment full text”).

# Annual exchange of views with the committee of ministers

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**T**he Committee of Ministers – the political body of the Organisation whose decisions were instrumental in the setting up of GRECO has played a central role in stimulating political commitment to fighting corruption. On the occasion of an annual exchange of views at which GRECO's general activity report is presented, GRECO's President counts on that continued support to convey some key messages to the capitals. In 2015 (1231<sup>st</sup> meeting of the ministers' deputies, 17 June) he *inter alia* highlighted the following:

- ▶ There is undoubtedly a higher level of awareness of the pervasive effects of mismanagement, conflicts of interest and corruption in both public life and the private sector.
- ▶ It is abundantly clear that there is still a need to mobilise the requisite will to address the shortcomings identified by GRECO monitoring. Despite the different status and role that MPs, judges and prosecutors play, there is 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 - in most member States this is not the case yet. In other members the 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.
- ▶ 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. Mechanisms for providing MPs, judges and prosecutors with help,

advice or training on integrity or ethics are limited and the procedures for responding to infringements of the related codes/regulations are often ineffective. Evidence from a number of countries suggests, nevertheless, that an integrity culture can emerge within public assemblies and the justice system themselves without 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 4<sup>th</sup> Round.

- ▶ While the track record of member States regarding their anti-corruption legislation is mostly positive, notably alignment with the Criminal Law Convention on Corruption and its Additional Protocol, the funding of political life – a focus of the 3<sup>rd</sup> Round – remains an important area of concern where 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, Rule 32 procedures helped to accelerate reform and the procedures were lifted in nine cases (Belgium, France, Germany, Greece, Malta, Romania, the Slovak Republic, Slovenia and Sweden) over 2014 and 2015. So, major advances are possible, even if they sometimes take considerable time. The pressure that is maintained in such cases by placing countries under closer scrutiny through a higher frequency of reporting is key.
- ▶ In December 2013, the Committee of Ministers officially invited **Kazakhstan** to become a member of GRECO following a request to that effect from the authorities of the country who have, however, not completed that accession process.

# The Council of Europe – Other anti-corruption initiatives

The Council of Europe pursues a multidisciplinary approach to tackling corruption and abuse of position in the public and private spheres so that trust in the rule of law, public institutions and democratic processes can be consolidated or restored and a level playing field provided for competition within both the profit and non-profit making sectors.

Major external funding, provided notably by the European Union and the EEA and Norway Grants, supports the Council of Europe budget for the **technical cooperation and assistance activities** managed by the Economic Crime and Cooperation Unit (ECCU) of the Information Society and Action against Crime Directorate. Overall, in 2015, more than 4 000 individuals from government and civil society benefitted from 132 tailor-made ECCU activities for preventing and combating corruption, money laundering and terrorism financing – including asset recovery. International landmark events in Tirana and Prague provided fora for European Economic Area partners to discuss new trends in economic crime and further develop cooperation. GRECO's findings and recommendations provide the structure for the development of anti-corruption components for such programmes and projects (see below), and input from its experts to related events is frequently solicited.

- ▶ Project to strengthen anti-corruption and anti-money laundering systems in the Czech Republic (ACAMOL-CZ)
- ▶ Project on Asset Recovery in Bulgaria (AR-BG)
- ▶ Project on the Protection of the Rights of Entrepreneurs in the Russian Federation from Corrupt Practices (PRECOP-RF)
- ▶ Project on Strengthening the capacities of law enforcement and judiciary in the fight against corruption in Serbia (PACS-Serbia)
- ▶ Project on Strengthening the coordination of Anti-Corruption Policies and Practices in Turkey (TYSAP)

- ▶ EU/Council of Europe Programmatic Cooperation Framework (PCF) in the Eastern Partnership countries – Fight against Corruption and Fostering Good Governance / Fight against Money-Laundering (regional and country-specific projects: Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine)
- ▶ EU/Council of Europe Joint Programme Towards Strengthened Democratic Governance in the Southern Mediterranean (SNAC 2) (regional and country-specific projects: Jordan, Morocco, Tunisia)
- ▶ International conference on Detecting and investigating corruption and fraud through audit procedures (Tirana, 27-28 May)
- ▶ International conference on Developing Trends in Combating Corruption, Money Laundering and recovering Criminal Assets in Europe (Prague, 20-21 October)

Details of the full range of activities carried out within these programmes/projects in 2015: [www.coe.int/corruption](http://www.coe.int/corruption)

Below are examples of involvement in the initiatives of other Council of Europe bodies or of work noted as being of potential interest or relevance to delegations and their authorities.

- ▶ Action by the Enlarged Partial Agreement on Sport (EPAS) in the field of good governance and for the promotion of the **Convention on the Manipulation of Sports Competitions** (CETS no. 215) – the first international legally binding tool in the fight against match-fixing. In depth information of the coordinated mobilisation of the Council of Europe, other international organisations, the sports movement, NGOs and other stakeholders on the issues of match-fixing and good governance in sport are included in a thematic article published in [GRECO's General Activity Report for 2014](#).
- ▶ In the context of the Council of Europe's framework for cooperation with neighbouring regions, the

comprehensive **programme of cooperation priorities for the Kyrgyz Republic** includes 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. A delegation from Bishkek was invited to an exchange of views with the Plenary in June. A review of the institutional, legal and policy framework and practice for fighting corruption and money laundering will be carried out along the lines of the GRECO and MONEYVAL monitoring methodologies – a process the authorities see as essential preparation for acceding to the relevant standard setting instruments and monitoring mechanisms. The Plenary welcomed those aspirations.

- ▶ The launch of the **Pan-European Platform on Ethics, Transparency and Integrity in Education (ETINED)** a network of specialists from the fifty States parties to the European Cultural Convention of the Council of Europe (ETS 018). This initiative stems from a political mandate given to the Steering Committee on Education (CDPPE) by Ministers of Education at the 2013 Helsinki Ministerial Conference on "Governance and Quality Education". The CDPPE was asked to establish a pan-European platform of exchange of information and best practices on ethics and integrity in education, with special attention to the fight against corruption and fraud in education and research with a view to furthering the Helsinki agenda for quality education across the European continent.
- ▶ The preparation of a draft **Action Plan (2016-2020)** to provide a framework for follow-up to be given to the **White Paper on Transnational Organised Crime** endorsed by the European Committee on Crime Problems (CDPC) in 2014. GRECO's representative in the Working Party that drew up the draft Action Plan (Elena KONCEVICIUTE, Lithuania) reported to GRECO that great care had been taken to identify where added value could be achieved and that there is a very clear potential for achieving concrete results under the Action Plan.
- ▶ In response to the Council of Europe's **transversal programme and strategy on Gender Equality** managed by the Gender Equality Commission (GEC) which calls for gender mainstreaming in all policies and measures, GRECO's Gender Equality Rapporteur, Helena LIŠUCHOVÁ (Czech Republic) has played a key role by promoting consideration of gender issues and the collection of salient data in member States. In the context of disaggregated data collected in the 4<sup>th</sup> Evaluation Round, the typology of gender imbalances within parliaments and the judiciary and the impact this has on transparency, accountability and openness and the propensity for corrupt practices has been examined by delegations in GRECO. An analysis of that data, as well as selected European research related to gender dimensions of corruption and prevention policies was presented to national delegations in GRECO at a **round table** organised with financial support from Monaco. It has been agreed that in the 5<sup>th</sup> Evaluation Round efforts will be extended to identify gender imbalances which might potentially lead to or result from non-transparent informal networks and decision-making processes.
- ▶ Opinion No. 18: The position of the judiciary and its relations with other powers of state in a modern democracy, adopted by the **Consultative Council of European Judges (CCJE)** in which the importance of principles of professional conduct (ethics and integrity) in the prevention of corruption in the judiciary is emphasised and GRECO's work recognised.
- ▶ The Rome Charter for Prosecutors, Opinion No. 9 on European Norms and Principles concerning Prosecutors, adopted by the **Consultative Council of European Prosecutors (CCPE)** which sets relatively high targets with respect to independence and autonomy from external pressure or interference and argues that prosecutors should not benefit from any immunity.
- ▶ A report by the Committee on Legal Affairs and Human Rights of the **Parliamentary Assembly of the Council of Europe (PACE)** entitled Judicial corruption: urgent need to implement the Assembly's proposals, as well as the outline of a report to be prepared by the Committee on Political Affairs and Democracy on the theme Corruption as governance regime: a barrier to institutional efficiency and progress.
- ▶ Expert contributions were made to a seminar, organised by the PACE Committee on Rules of Procedure, Immunities and Institutional Affairs, on Funding of political parties and electoral campaigns: legislation and control mechanisms that brought together the members of that committee and MPs from the national parliaments of **Eastern Partnership** countries.

# External relations

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**T**he need – recognised across the anti-corruption community – for mutual reinforcement of efforts and extending the influence of strong regional mechanisms and initiatives to other parts of the world underpins GRECO's external relations. Solicitations for input to other international/national activities are frequent and potential for cooperation is regularly brought to the attention of the plenary. Calls for sharing of expertise stem from longstanding arrangements – particularly with Observers – or the specific thematic focus of one of GRECO's evaluation rounds. Attention is also paid to the coordination of monitoring activities and promotion of synergies in work plans and outputs.

For 2015, particularly salient illustrations include GRECO's involvement/participation in the following.

- ▶ An exchange of views between the Plenary and Robert SATTLER, Head of the Cabinet of the Austrian Court of Audit which provides the General Secretariat of the International Organization of Supreme Audit Institutions (**INTOSAI**), an umbrella organisation for the external government (public) audit community whose membership covers the supreme audit institutions (SAIs) of nearly all UN member States. It provides an institutionalised framework for supreme audit institutions to improve government auditing worldwide and enhance the professional capacity, standing and influence of SAIs in their respective countries. Its strategic goals include the development of professional standards, institutional capacity building and knowledge sharing (where a working party focuses on the fight against corruption). He acknowledged the significant impact GRECO evaluations can have and hoped that in that context emphasis could be put on the independence and capacity building of supreme audit institutions as a means to improve transparency and accountability to the benefit of the fight against corruption.
- ▶ The Global Conference on Money in Politics ([www.moneyinpolitics.info](http://www.moneyinpolitics.info)) hosted by the International Institute for Democracy and Electoral Assistance (**International IDEA**) and the Electoral Court of the Federal Judiciary of Mexico, organised in collaboration with the OECD and the National Electoral Institute (INE) of Mexico brought together leaders and speakers from around the world to discuss solutions to the most pressing issues surrounding money in politics. A presentation of achievements and challenging areas from GRECO's comprehensive anti-corruption perspective on the issue, identifying connections with threats to democracy and the rule of law, by GRECO's President triggered extensive interest and debate. A working session on the design of effective regional and international inter-agency collaboration for the enforcement of political finance law was led by a GRECO evaluator, Fernando JIMENEZ-SANCHEZ. It brought together regional organisations from around the world, speakers/moderators from the Forum of the Election Management Bodies of South Asia (FEMBOSA), the Global Organization of Parliamentarians against Corruption (GOPAC) and the Organization of American States (OAS) and participants from the OECD, IFES and OSCE/ODIHR among others. The International Foundation for Electoral Systems (**IFES**) provided statistical data on the positive impact GRECO monitoring has had on reform (see in this respect this year's feature article, page 43).
- ▶ International IDEA also provided a platform for discussions with representatives of the Nordic states and support for the practical implementation of new legislation related to 3<sup>rd</sup> Round recommendations on the transparency of political financing – a field that ties in particularly well with the mission of International IDEA and where a number of GRECO member States have yet to reach a satisfactory level of compliance. Furthermore, it makes considerable use of GRECO's work in the context of technical assistance delivered principally outside Europe.
- ▶ The Organisation for Security and Co-operation in Europe – Office for Democratic Institutions and Human Rights (**OSCE/ODIHR**) actively promotes

GRECO's work and implementation of its recommendations through its technical assistance and other support activities, particularly in the field of political funding. Coordination with partner organisations in order to deliver strong and coherent messages is being sought by the Rule of Law Unit with respect to judicial independence – where there is a possibility to combine efforts regarding the accountability and integrity aspects of independence, and parliamentary ethics – two fields where further input from GRECO will be requested.

- ▶ Cooperation, including in the fields of **European Union** neighbourhood, external action and enlargement policies has operated for some time through well-established Council of Europe/EU consultation frameworks. A **European Parliament** Joint Hearing involving MEPs members of the Committees on Budgetary Control, Legal Affairs, Civil Liberties, Justice and Home Affairs and Constitutional Affairs on the theme Towards a high degree of Accountability, Transparency & Integrity in the EU Institutions was the perfect setting for recalling the numerous pronouncements that have been made by various EU bodies on EU-engagement in the anti-corruption area, particularly the aim of full EU accession to GRECO, and to explain the benefits of membership – which would include authoritative monitoring of the EU institutions by GRECO and significant opportunities for reinforcing anti-corruption policies across. Despite some uncertainty about the proper legal avenues for accession under EU law, the European Commission has reiterated its continued engagement in the question of accession. The **European Ombudsman** facilitated an informal exchange of ideas for expertise-sharing with a number of Council of Europe departments on issues of human rights, transparency and ethics in public administration.
- ▶ Inter-secretariat relations are maintained with the Global Organization of Parliamentarians against Corruption (**GOPAC**) which with its numerous national chapters worldwide provides a good platform for extending influence, and exchanges with interlocutors in a number of European countries. During the Sixth Global Conference of Parliamentarians against Corruption held by (**GOPAC**) a round table on parliamentary ethics and conduct was an opportunity to share with a worldwide audience of parliamentarians findings from the 4<sup>th</sup> Evaluation Round, including challenges ahead for the building and reform of systems which set professional and ethical standards and regulate parliamentary conduct to ensure standards are met. Note was taken of the launch by the **National Democratic Institute for International Affairs** of an open data IT tool providing information of integrity systems developed in national parliaments.

- ▶ Participation in **national events** aims rather at raising awareness and clarifying GRECO's expectations with respect to implementation for the various domestic institutions and authorities concerned. Examples included a colloquy gathering participants from the prosecution service, the courts, law enforcement, the ministry of justice, the financial investigation unit, parliamentary services, court of audit as well as the European Commission at which the Minister of Justice of Belgium made a number of commitments with respect to the 3<sup>rd</sup> and 4<sup>th</sup> Evaluation Rounds. In Bulgaria, the Deputy Prime Minister for European Policies Coordination and Institutional Affairs held an exchange with the Chairman of the Polish Central Anti-Corruption Bureau and GRECO's President and Justice at the Supreme Court of Croatia on transferring good practices from those two countries which are two of the most recent EU member States. A Conference on Prevention of Corruption among judges, prosecutors and parliamentarians in the light of GRECO's 4<sup>th</sup> Evaluation Round, gathering participants from the Ministry of Justice and other governmental bodies, members of Parliament and NGOs was held in Poland. At another, the International Anti-Corruption Conference: Preventing. Fighting. Acting. the leaders of Ukraine gathered national officials, NGOs, the business sector and international organisations to promote ongoing anti-corruption reforms and the implementation of recent legislation.

Four international organisations have observer status in GRECO. The Organisation for Economic Co-operation and Development (**OECD**), whose anti-corruption monitoring is principally in the field of bribery in international business transactions, has also produced for its membership a study entitled Financing Democracy - Framework for supporting better public policies and averting policy capture, as well as the CleanGovBiz *toolkit* on Lobbying, both of which can be usefully referred to by GRECO. GRECO's Secretariat cooperates with the Steering Group of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) a regional outreach programme of the OECD Working Group on Bribery (cf ACN studies on the Liability of Legal Persons and on the Foreign Bribery Offence and its Enforcement that GRECO's Secretariat was consulted on). The United Nations represented by the United Nations Office on Drugs and Crime (**UNODC**) reviews implementation of the United Nations Convention against Corruption (UNCAC) under a mechanism that covers a very diverse membership, and where GRECO with its tight regional grouping and strong follow-up mechanism can exert a positive influence with respect to building consensus and fostering political will. The International Anti-Corruption Academy (**IACA**) is a respected academic and training institution and

valued partner. The Organization of American States (OAS) conducts monitoring across the Americas in the framework of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC) and intends to better integrate the anti-corruption approach in its future electoral monitoring missions and to seek cooperation from GRECO in that context.

**A full list of meetings is available in Appendix II.**

In 2015 GRECO's work elicited an unprecedented level of attention from academics and research institutions and examples of research work under preparation brought to the attention of the Secretariat include:

- ▶ international comparative research dealing with the political authority and impact of peer reviews among States, conducted by Maastricht University
- ▶ political party funding systems (Great Britain, France and Denmark) and whether they present certain corruption challenges

- ▶ whistle-blowers in modern corporate governance: the right incentives and ethics in the boardroom
- ▶ a comparative study for the European Parliament on declarations of interest by members of parliament in the European Union member States
- ▶ an analysis of reports from the first three evaluation rounds including the development of a compliance score by a PhD student at the Hertie School of Governance
- ▶ the influence of European institutions – including GRECO – on corruption and anti-corruption policies in post-communist States (particularly Romania and Bulgaria)
- ▶ EU accession to GRECO.

The Secretariat was also asked to provide input for research conducted on behalf of the European Parliament by the Rand Corporation in the context of a project entitled “Cost of Non-Europe (CONE) in the area of corruption”.

# Governing structures and management

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**T**he permanent bodies constituting GRECO are the Plenary, the Bureau and the Statutory Committee. The Statute also provides for ad hoc bodies, principally evaluation teams but also working parties.

## **Plenary and Bureau**

GRECO elects a President, Vice-President and Bureau for each new evaluation round. The positions of President and Vice-President for the duration of the current 4<sup>th</sup> Evaluation Round were taken up in 2012 by Marin MRČELA, Justice at the Supreme Court of Croatia and Christian MANQUET, Head of Department, Directorate for Penal Legislation, Ministry of Justice of Austria respectively.

The representatives of member States that compose the Plenary are directly involved in the peer review process during the examination and adoption of evaluation/compliance reports. The Plenary also takes final decisions on the focus of GRECO's monitoring, policy and planning.

## **Statutory Committee – Budget and Programme of Activities**

The Statutory Committee is composed of the Permanent Representatives of all Council of Europe member States (the Committee of Ministers) and representatives of the two GRECO member States that are not members of the Organisation (Belarus and the United States of America). Its principle task is to adopt GRECO's programme and budget which is prepared in line with the biennial method implemented throughout the Organisation and based on priorities presented by the Secretary General. The Statutory Committee, chaired in 2015 by Peter GUNNING, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the Council of Europe, approved GRECO's biennial programme 2016-2017 and Budget for 2016.

## **Secretariat**

The Secretariat, headed by Wolfgang RAU, Executive Secretary, provides substantial analytical and technical input to GRECO's monitoring work and is responsible for the management of the budget and programme of activities as well as external relations (organisational chart of GRECO's Secretariat - Appendix III).

# Feature article

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## Transparency in Political Finance – public and civil society oversight<sup>1</sup>

By Dr Magnus Öhman, Senior Political Finance Adviser and Director Regional Europe Office at the International Foundation for Electoral Systems (IFES)

### Introduction

It is difficult to conceive of a democratic political system without money. A participatory notion of democracy requires a dialogue between politicians and the electorate about the best ways of governing a country, and this dialogue requires resources.<sup>2</sup> Political parties also need resources for research on the best policy positions to adopt and the most suitable solutions to present to the people.

On the other hand, the very existence of money in the political sphere always brings temptations of corruption. Politicians may be willing to receive significant donations in return for making certain political decisions, and they may go to significant lengths to conceal contributions that the donor does not want to become public. In some countries, the flow of illicit resources through the political process serves the dual purpose of corrupting politicians and laundering money.

There are also significant concerns regarding money in politics that are only indirectly related to corruption. If access to money becomes the prime determinant for electoral success, political pluralism and accountability will suffer.<sup>3</sup> Public confidence in the political system will also deteriorate if the electoral process is perceived as dominated by money. Reduced accountability and public confidence may in turn increase political corruption if the gap between voters and elected officials is too large.

While there are many claims regarding rising costs of politics and election campaigns, there is actually little hard evidence that this is a global trend. However, the issue of whether costs are actually rising or not is less important than the increasing perception that the role money is playing in our democratic system is excessive and corruptive.

Unfortunately, while there is a general agreement that at least some rules are necessary to control the role of money in politics, there are few concrete international standards on what such regulations should look like. Effectively the only global provision is a passage in the United Nations Convention against Corruption that countries should consider rules that enhance transparency in political party and campaign finance (Article 7.3). Europe, however, has more detailed standards than most other regions, with the core being the Council of Europe "Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns."

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1. The analysis and views expressed in this article are the author's own and do not necessarily reflect those of the Group of States against Corruption (GRECO) or of the Secretariat of the Council of Europe.
  2. The stress placed on public participation in the democratic process varies between thinkers. However, also theorists such as Schumpeter who effectively discouraged the participation of citizens in-between elections would agree that election campaigns in a democracy require resources to allow the electorate to make an informed choice. See Joseph Schumpeter (1942) *Capitalism, Socialism and Democracy*. Harper & Brothers.
  3. The United Nations Office of the High Commissioner for Human Rights has noted in this context that spending limits may be reasonable "to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party." *General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25)*. Article 19.

The 2003 Council of Europe recommendation served as the foundation for the GRECO evaluations on transparency in political party funding (third round, second theme) of all 49 GRECO Member states apart from Belarus, Lichtenstein and San Marino, published between 2007 and 2012. In other forums, I have argued that the compliance rate with the GRECO recommendations from these evaluations is remarkable – in many cases, GRECO recommendations required legal changes, and as of the second compliance report, an average of 45% of recommendations were declared as satisfactorily implemented.

The focus of this thematic article is on how public and civil society oversight can help to increase transparency in political finance. Political finance is inclusive of not only how political parties and election campaigns are financed, but also broader issues such as the abuse of state resources, bribery of voters and election officials and corruption such as campaign donations given in return for tax credits or public contracts.

Transparency is a key principle in ensuring effective oversight and compliance with regulations. By bringing to light the financial activities of political parties, candidates and others involved in the political process, corrupt behaviour can be exposed and the electorate can make informed choices about who to support through the ballot box and in-between elections.

It is valuable to consider two forms of political finance oversight aiming at increasing transparency – the first by public institutions with the legal mandate to address compliance with political finance regulations broadly defined, and the second by actors in civil society that can monitor, investigate and report on the financial behaviour of political actors. The international experience shows clearly that both public and civil society involvement is needed for effective oversight and for ensuring compliance with the regulatory framework. This requires the involvement of state institutions (oversight bodies and the judiciary in particular), civil society organisations and the media.

### **Oversight by public institutions**

The approach to public oversight of political finance varies over the 49 GRECO member states. While the main election management body has the formal oversight role in most, in others this role is held by institutions such as the national audit body or anti-corruption agency. In some countries the oversight responsibility is shared over a number of institutions – with the six institutions involved in the “the former Yugoslav Republic of Macedonia” possibly being a record.

Effective oversight of political finance regulations cannot be achieved without one or more motivated and independent public institutions with the necessary resources and mandate. However, the lesson learned from countries around the world that have been working towards effective oversight of political finance is that is not possible for any one institution to alone ensure transparency in political finance and compliance with the rules.

One challenge is simply capacity. In many countries, required campaign finance reports may result in many thousands of pages (not including support documentation) when hundreds if not thousands of candidates are contesting an election. In most European countries, the public oversight body only has a small number of staff members available to review the received financial reports, and they often have limited time to do so. For example, the French institution (*Commission nationale des comptes de campagne et des financements politiques, CNCCFP*) has approximately 30-40 permanent staff working on political finance oversight, and there were almost one million candidates in the 2014 municipal elections. Admittedly the CNCCFP only reviews campaigns in constituencies with more than 9,000 citizens, but this clearly illustrates that the workload may in many cases be overwhelming.

The mandate and resources of the public oversight body are also often lacking. In his 2011 thematic review “Fighting Corruption, Political Finance” of the GRECO’s Third Evaluation Round, Yves-Marie Doublet argued that while there are numerous cases of public oversight bodies that make no review beyond the data submitted by parties and candidates themselves, “examples of effective supervisory bodies which have significant investigation resources are much rarer” (Article 111).

It is also important to keep in mind that in most cases it is politicians who decide the rules for political finance and its oversight. Also in countries where the oversight institution is formally independent from outside interference, its budget and mandate are normally set by parliament (in which politicians sit), and staff of the political finance bodies are aware that their continued careers may be impacted by how they behave in cases relating to those decision-makers.

That politicians determine the rules around their own financial behaviour is effectively an inescapable dilemma of democracy. Therefore, to ensure transparency and accountability in political finance, it is essential that the work of public bodies is complemented by the efforts of actors in civil society.

## Oversight by civil society organisations

The main strength of civil society oversight of political finance is that it can bring awareness to issues that are harmful to the political process regardless of whether they are technically legal or illegal. If a practice is observed that is currently legal in a particular country but detrimental to the political process, civil society advocacy can bring this to the attention of the electorate and push for reform on the issue in a way that many public oversight bodies would not have the mandate to do. Media can play an essential role in political finance oversight – the power of the scandal as a driving force for reform can be immense, and the potential threat of a scandal may in many cases be a more powerful incentive for politicians to comply with political finance regulations than any formal sanctions. Unfortunately, while a scandal can be a powerful driver of change, it is not necessarily as effective in ensuring that regulatory reform is suited to the longer-term interest of the democratic process rather than being a response to the particular issue that the scandal happened to be about. Therefore, the main focus of this article is on the political finance oversight conducted by civil society groups, such as watchdogs, anti-corruption organisations and other non-commercial organisations outside of the public sphere.

In some parts of Europe, civil society groups have come to play a significant role in the oversight of political finance. Monitoring of campaign finance started in earnest in Europe around 2003 by organisations such as Transparency International Armenia, Asociatia Pro Democratia in Romania, the Center for Anti-corruption Research and Initiative, Transparency International Russia and the Fair Play Alliance in Slovakia. Since then, monitoring efforts have been carried out in more than a quarter of GRECO member states, especially in Central and Eastern Europe. In Western Europe, civil society interest in political finance issues has generally been much lower. This difference should be seen in light of the overall focus on political finance being much stronger in Central and Eastern Europe than in Western Europe, though Western European countries have had their fair share of political finance scandals in recent years.

In general, voters will only seldom access political finance data from political parties and candidates published by public oversight bodies. However, civil society actors can play an important role in analysing such data, investigating its accuracy and presenting it to the electorate in a user-friendly manner. Civil society actors can also engage in analysis, such as on the major donor categories for different political parties, which it may not be appropriate for public oversight bodies to publish as they must avoid the perception of any kind of bias.

There are a number of implications for the publication of political finance data if it is to be useful for civil society actors. Ready access to political finance data is essential for effective oversight. In Europe, the accessibility ranges from a single hard-copy of reports in the Chamber of Deputies library in the Czech Republic, which the GRECO evaluation team found did “not allow the public, civil society and the media to exercise any meaningful oversight over the financing of political parties,”<sup>4</sup> to advanced databases with filters and search functions. The latter approach, arguably led by the site created by the Electoral Commission in the United Kingdom,<sup>5</sup> is rarer in Europe. Most European public oversight bodies provide online access to political party and campaign finance data, but without the capability to search for individual donors or to download data for further analysis.

A minimum requirement for public oversight bodies should be that data publication should allow for searches regarding whether a permissible donor has made contributions to any political party or election campaign during the last few electoral cycles. This is necessary for judging whether any actor may have an undue influence over political actors, regardless of whether or not such influence is technically illegal.

It is often difficult for civil society organisations to effectively monitor the income of political parties and election campaigns. In some cases, reporting thresholds mean that smaller donations are not reported at all. In Germany, for example, the identity of a donor is only revealed if (s)he has given more than EUR 10,000 in a year. In Denmark, the reporting threshold is lower (only around EUR 2,700); however, since the report does not have to state how much money the identified donor gave, it becomes impossible to verify if the record is accurate. In other cases, the identity of donors is given with less detail than is needed to actually identify who the donor was. There are some exceptions, for example in Moldova, where details about donors and the public availability of income records allowed the Resource Centre for Human Rights (CRDO) and Centre for Partnership Development (CPD) to show that 8% of the recorded donors claimed to have given more money in campaign donations in the 2010 elections than they had earned the preceding year. Of

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4. GRECO (2011) *Third Evaluation Round, evaluation report on the Czech Republic on transparency of party funding*, page 18.

5. See [search.electoralcommission.org.uk](http://search.electoralcommission.org.uk)

course this can happen in individual cases (someone making a large donation from her/his savings), but it is curious that this happened in 647 cases in these elections.<sup>6</sup>

Timeliness of political finance data publication is another crucial aspect of how effective civil society actors can be in increasing transparency and accountability. For Montenegro, the GRECO evaluation team noted that the role of civil society was “severely hampered by the current irregular publication practices,” including the late publication of official reports, “thereby preventing a genuine oversight by the general public.”<sup>7</sup> Following the release of the GRECO report, new legislation has moved the oversight mandate in Montenegro to the newly created Anti-Corruption Agency, and it remains to be seen to what extent financial information will be available in a timely manner moving forward.

Civil society organisations in GRECO member states and elsewhere have developed various tools for monitoring the financial transactions of electoral contestants, particularly campaign spending. The International Foundation for Electoral Systems (IFES) has in cooperation with these groups developed methodologies such as the Parallel Expense Tracking (PET) system, which allows groups to monitor actual campaign spending in different categories.

In practice, it is often difficult to compare data monitored by civil society organisations directly with the financial reports submitted by political parties and candidates. In some cases, reporting thresholds mean that smaller transactions (including both campaign donations and campaign spending) are not reported at all. In some countries, such as Sweden, political parties are not required to submit any information about their spending, making comparisons between reported and actual expenditure impossible. The main problem tends to be that political party and election campaign transactions are reported at such a high level of aggregation that it becomes impossible to verify whether individual transactions have been included accurately – for example, if all spending on advertising is reported as a lump sum instead of itemised. Even if such direct comparisons are not possible, independent civil society monitoring of campaign finance activities is still extremely valuable. In cases where political parties or candidates either do not submit financial statements or submit these only in a highly aggregated format, or where such reports are not made public (such as in Monaco and until 2016 in Malta), information from independent monitoring by civil society groups may be the only available data on the financial behaviour of those wishing to represent the people in elected bodies.

Civil society oversight requires mechanisms of reporting detected inaccuracies or potential violations to public authorities. The GRECO evaluation team on the Slovak Republic noted that “Although the media and civil society – such as the Slovak chapter of Transparency International, the Fair Play Alliance and Civic Eye – play a key role in providing a form of external oversight of parties’ compliance with the relevant regulations, this oversight is significantly hampered by the absence of any mechanism by which irregularities found by external stakeholders can be followed up.”<sup>8</sup>

The publication and review of financial records from political parties and candidates is not sufficient in creating transparency regarding all political finance issues. For example, potential abuse of state resources in electoral processes will seldom be visible in campaign finance records. Other documents such as budgets and spending data for different public entities are necessary in this regard. Transparency International Georgia (TIG) has developed innovative approaches – in particular in the monitoring of budget resources, using their concept of “electorally motivated spending” – and while TIG has reported few cases of direct violations of the legislation in this area, over the last several electoral cycles they have reported many cases where state resources have been used to unduly favour or hinder a particular political actor.<sup>9</sup>

Monitoring potential abuse of state resources requires that various documents be made publically available, including budgets, spending records and records on public procurement. Legal changes introduced in Montenegro in 2014 address this issue. The new law stipulates that all budget units are required during the campaign period to publish on their website information on a weekly or bi-weekly basis about their accounts, spending and social welfare payments, as well as their travel orders (valuable in monitoring the ban on public vehicles being used for needs other than “public duty”). Any decisions to hire staff must also be reported to the Anti-Corruption Agency, which is required to publish these on its website. This could potentially open opportunities for civil society to monitor activities by Montenegrin public authorities, and other European countries should consider similar approaches. It is yet to be seen how Montenegro will address some challenges that accompany this change in legislation, for example that many entities required to publish information currently lack a website.

6. Center for Partnership Development & Resource Center for Human Rights (2010) *Campaign Finance in Moldova, Big money, few donors, undeclared expenses - reform needed!* Page 17.

7. GRECO (2010) *Third Evaluation Round, evaluation report on Montenegro on transparency of party funding*, page 20.

8. GRECO (2008) *Third Evaluation Round, Evaluation Report on the Slovak Republic on Transparency of party funding*, page 21.

9. Most of the reports can be found at <http://transparency.ge/en/elections-related-reports>



Transparency International Slovenia provides an excellent example of what can be done through analysing data on public spending in relation to elections. They monitored spending in the 2014 local government elections, and found interesting patterns in the overall spending by municipalities. Graph 1 shows clearly how such spending was much higher in 2010 and in 2014 than in other years. These were the years when local government elections were held.<sup>10</sup>

It cannot be assumed that all civil society efforts will be neutral and aimed at improving transparency and accountability in political finance. Just as with “traditional” election observation, there may be cases where false accusations are made against certain political actors to discredit them in the eyes of the electorate or the international community. This potential issue does not negate the importance of civil society oversight efforts. Rather, these risks strengthen the case for efforts to support the development of reliable and verifiable civil society monitoring approaches, along the lines of what has been done for international and domestic election observation organisations.

### Concluding remarks

Civil society oversight can serve as an indispensable complement to public oversight in increasing political finance transparency and accountability. With the availability of necessary data published in a timely and user-friendly manner, civil society actors can compare independently monitored information with official records and assist public oversight bodies in preventing and counteracting political finance violations.

The vast majority of the work to increase political finance transparency and accountability needs to come from within each country. However, the GRECO evaluations of political finance and subsequent reforms show the value of international assistance, and this also applies to implementation efforts by public and civil society actors. IFES supports domestic civil society groups in monitoring political finance around the world, including in Council of Europe member states. In recent years, we have supported civil society efforts in countries such as Georgia, the Republic of Moldova, Serbia and Ukraine, and IFES is currently developing a handbook on campaign finance monitoring, which will be published by the end of 2016. This is a complement to the assistance provided to public oversight bodies in implementing political finance regulations and giving life to recommendations by GRECO and others. Such work is the focus of the IFES *Political Finance Oversight Handbook* from 2013.<sup>11</sup>

10. Graph reproduced with the permission of TI Slovenia, based on information in Transparency International Slovenia (2015) *Study Report on the Transparency of Slovenian Local Government Elections in 2014*.

11. For further information, please see <http://www.ifes.org/issues/political-finance>

# Appendices

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## APPENDIX I – Representatives in GRECO (at 23/12/2015)

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---

Mr Oleksandr DANYLUIK (Head of delegation)  
Representative of the President of Ukraine  
within the Cabinet of Ministers

Mr Robert SIVERS  
Head of the Anticorruption Policy Department  
Ministry of Justice  
*Substitut/e*  
Mr Oleksiy SVIATUN  
Senior expert  
Administration of the President  
International Legal Issues Sector, Department of Foreign Policy and European Integration

## UNITED KINGDOM / ROYAUME-UNI

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Mr David MEYER (Head of delegation)  
Head of International Relations  
Law Rights and International Directorate  
Ministry of Justice  
*Substitut/e*  
Ms Fiona SALEM  
Senior Adviser  
International Relations  
Law Rights and International Directorate  
Justice Policy Group  
Ministry of Justice

Ms Amrita OHBI  
International Relations  
Justice Policy Group  
Ministry of Justice

## UNITED STATES OF AMERICA / ETATS-UNIS D'AMERIQUE

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Mr Robert LEVENTHAL (Head of delegation)  
Director - Anticrime Programmes Division  
Bureau for International Narcotics and Law Enforcement Affairs  
U.S Department of State  
*Substitut/e*  
Ms Jane LEY  
Senior Anticorruption Advisor (ATSG)  
International Narcotics and Law Enforcement Bureau  
U.S Department of State

Mr Michael OLMSTED  
Senior Counsel for the European Union  
U.S. Department of Justice  
U.S. Mission to the European Union

## PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE / ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE

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Mr Robert NEILL (United Kingdom)  
Member of the Committee on Legal Affairs  
and Human Rights

*Substitut/e*  
Mr Kimmo SASI (Finland)  
Member of the Committee on Legal Affairs and Human  
Rights

## REPRESENTATIVES OF THE CDCJ / REPRÉSENTANTS DU CDCJ

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Ms Ayben IYISOY (Turkey)  
Judge, Head of Department  
General Directorate of International Law and Foreign  
Relations  
Ministry of Justice

*Substitut/e*  
Ms Merima BAKOVIC (Montenegro)  
Senior Adviser in Department of Judiciary  
Ministry of Justice and Human Rights

## REPRESENTATIVE OF THE CDPC / REPRÉSENTANT DU CDPC

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Ms Helena LIŠUCHOVÁ  
Head of International Cooperation Department  
Ministry of Justice

## PRESIDENT OF THE STATUTORY COMMITTEE OF GRECO / PRÉSIDENT DU COMITÉ STATUTAIRE DU GRECO

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Mr Peter GUNNING  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Ireland to the Council of Europe

## COUNCIL OF EUROPE DEVELOPMENT BANK (CEB) / BANQUE DE DEVELOPPEMENT DU CONSEIL DE L'EUROPE (CEB)

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Ms Katherine DELIKOURA  
Chief Compliance Officer

## OBSERVERS / OBSERVATEURS

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### Organisation for Economic Co-operation and Development (OECD) / Organisation de Coopération et de Développement Économiques (OCDE)

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M. Patrick MOULLETTE  
Division de Lutte contre la Corruption  
Direction des Affaires Financières, Fiscales et des Entreprises  
Ms Inese GAIKA  
Anti-Corruption Division  
Directorate for Financial, Fiscal and Enterprise Affairs

Ms Olga SAVRAN  
Anti-Corruption Network for Transition Economies  
within Anti-Corruption Division

### United Nations, represented by the UN Office on Drugs and Crime (UNODC) / Nations Unies, représentées par l'Office des Nations Unies contre la Drogue et le Crime (ONUDC)

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Mr Dimitri VLASSIS  
Chief of the Crime Conventions Section  
Division for Treaty Affairs  
Ms Annika WYTHES

Ms Brigitte STROBEL-SHAW  
Crime Prevention and Criminal Justice Officer  
Corruption & Economic Crime Section  
Treaty and Legal Assistance Branch

### International Anti-Corruption Academy (IACA) / Academie Internationale de Lutte contre la Corruption (IACA)

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Mr Martin KREUTNER  
Dean - Executive Secretary of the Assembly of Parties  
Ms Christiane POHN-HUFNAGL  
Chief of Staff

Mr Ernst SCHMID  
Head of External Relations & Protocol

### Organisation of American States (OAS) / Organisation des Etats Americains (OEA)

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Mr Jorge GARCIA-GONZALES  
Director  
Department of Legal Cooperation  
Secretariat for Legal Affairs

## APPENDIX II – Other Meetings

### External relations

GRECO's President, experts, or Secretariat provided input to the following.

#### European Union

- ▶ Joint hearing – Towards a high degree of accountability, transparency and integrity in the EU institutions – organised by the European Parliament Committees on Budgetary Control, on Legal Affairs, on Civil Liberties, Justice and Home Affairs and on Constitutional Affairs (Brussels, 26 March 2015) – Secretariat
- ▶ Europe of Freedom and Direct Democracy Group in the European Parliament – panel discussion on the fight against corruption and organised crime in the EU (Brussels, 20 October) - Secretariat

#### International Institute for Democracy and Electoral Assistance (International IDEA)

- ▶ Nordic Meeting on Political Finance Regulation (Stockholm, 10 March) – Secretariat
- ▶ Global conference on Money in Politics hosted by International IDEA, the Electoral Tribunal of the Federal Judiciary of Mexico in collaboration with the OECD and the National Electoral Institute (INE) (Mexico City, 3-5 September) – President, evaluator Fernando JIMENEZ-SANCHEZ, Secretariat

#### Organisation for Economic Co-operation and Development (OECD)

- ▶ OECD/ACN, RAI and RACVIAC – Meeting on the effectiveness of corruption prevention measures (Zagreb, 18-19 May) - President
- ▶ 16<sup>th</sup> Monitoring meeting of the Istanbul Anti-corruption action plan/Anti-Corruption Network for Eastern Europe and Central Asia (Paris, 8-9 October) – Secretariat

#### Organization for Security and Co-operation in Europe/ Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

- ▶ Political Party Expert Workshop (Kiev, 14-16 July) – Secretariat

#### United Nations

##### UN Office on Drugs and Crime (UNODC)

- ▶ 13<sup>th</sup> United Nations Congress on Crime Prevention and Criminal Justice (Doha, Qatar, 12-19 April) – Secretariat
- ▶ United Nations Convention against Corruption Implementation Review Group – 6<sup>th</sup> session (Vienna, 1 June and 5 June) – Secretariat
- ▶ Open-ended Intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United

Nations Convention against Corruption (Vienna, 29 September) – Vice-President

- ▶ Conference of the States Parties to the United Nations Convention against Corruption – 6<sup>th</sup> Session (St. Petersburg, 2-6 November) – Secretariat

#### Others

- ▶ Public panel discussion on strengthening independence, and institutional models for the Corruption Prevention and Combating Bureau of Latvia – KNAB (Riga, 23 January) – Secretariat
- ▶ Public panel discussion organised by the Subcommittee for the Prevention of Corruption of the Parliament of Latvia on the future of KNAB (Riga, 10 February) – Vice-President
- ▶ Colloquy with State institutions of Belgium on current expectations with respect to anti-corruption reforms (Brussels, 27 March) - Secretariat
- ▶ Hearing of the Finance Commission, National Assembly of France on the state of reforms on the transparency and supervision of political funding (Paris, 31 March) – Secretariat
- ▶ Academy for Judges and Public Prosecutors “Pavel Shatev” / Technical Assistance and Information Exchange instrument of the European Commission (TAIEX) – multi-country workshop on the fight against corruption (Skopje, 22-23 April) – President
- ▶ Fourth Eurasian Anti-corruption Forum on “Prevention of Corruption: new approaches”, organised by the Institute of Legislation and Comparative Law (under the Government of the Russian Federation), the Russian Audit Chamber and the State Duma (Moscow, 23-24 April 2015) – Aslan YUSUFOV, Bureau member
- ▶ Organising Committee of the 6<sup>th</sup> Symposium of the Independent Commission Against Corruption (ICAC) of Hong Kong conference – A future without corruption: one vision, multiple strategies (Hong Kong, 11-13 May) – President
- ▶ Judicial Academy of Croatia – regional seminar on standards for corruption prevention in respect of judges and prosecutors (Cavtat, 20-21 May) - President
- ▶ Ministry of Justice of Poland conference – Prevention of corruption among judges, prosecutors and parliamentarians in the light of GRECO's 4<sup>th</sup> Evaluation Round (Warsaw, 29 May) – evaluator Yves-Marie DOUBLET, Secretariat
- ▶ Meeting of the State Attorneys of Slovenia (Bohinj, 10-11 June) – President
- ▶ Anti-Corruption Forum conference hosted by Deutsche Bank AG – Facilitation Payments: corruption or legal payments (Frankfurt, 2 July 2015) – Secretariat
- ▶ Public “European Debates” an initiative of the Deputy prime Minister for European Policies

- Coordination and Institutional Affairs of Bulgaria – Goals, challenges and good practices in preventing and countering corruption (Sofia, 3 July) – President
- ▶ Investiture ceremony of the Captains Regent of San Marino (San Marino, 1 October) – President
  - ▶ GOPAC – Global Conference of Parliamentarians against Corruption (Jogyakarta, 6-8 October) – Secretariat
  - ▶ Joint Financial Action Task Force (FATF) / G20 Anti-corruption working group – The role of financial institutions in combating corruption – dialogue with financial institutions: internal anti-corruption policies in the banking sector; experience with the implementation of FATF standards on politically exposed persons (Paris, 17 October) - Secretariat
  - ▶ Judicial Academy of Slovenia Lecture on lessons learned in the 4<sup>th</sup> Evaluation Round (Brdo pri Kranju, 22 October) - President
  - ▶ Federal Ministry of Justice of Switzerland workshop on law-making related to the financing of political parties and election and referenda campaigns (Berne, 3 November) – Secretariat
  - ▶ Preventing. Fighting. Acting – international anti-corruption conference organised by the National Council of Reforms of Ukraine (Kiev, 16 November) – Secretariat
  - ▶ Ministry of Finance of Poland conference – Counteracting money laundering that stems from corruption (Warsaw, 17-18 November) – evaluator Cornelia GÄDIGK
  - ▶ International seminar on the Prevention of Corruption in Contemporary Society organised by the Crimina Research Centre, University Miguel Hernández (Elche, 24-25 November) – Secretariat
  - ▶ Law Faculty, University of Aix-en-Provence – 3<sup>rd</sup> Annual Colloquy on Corruption (Aix-en-Provence, 12 December) - Secretariat

## Council of Europe

GRECO's President, experts, or Secretariat – provided input to the following.

- ▶ Visit to the Council of Europe by the Ministry of Foreign Affairs of Norway and the Financial Mechanism Office (Strasbourg, 14 January) - Secretariat
- ▶ Congress of Local and Regional Authorities – Expert meeting on future activities for promoting public ethics/preventing corruption at local and regional level (Paris, 17 February) - Secretariat
- ▶ EU/Council of Europe Joint Programme - Support to the Kazakh authorities in improving the quality and efficiency of the Kazakh justice system: Roundtable on possible accession to the Council of Europe Conventions in the criminal field (Strasbourg, 3 March) – Secretariat
- ▶ EU/Council of Europe Joint Project - Strengthening the Coordination of Anti-corruption Policies and Practices in Turkey (TYSAP): Training for inspectors from the Inspection Boards of the Prime Ministry and other ministries (Strasbourg, 13 March) - Secretariat
- ▶ Parliamentary Assembly of the Council of Europe and Parliamentary Assembly of Turkic-speaking Countries Seminar – Elected bodies: Transparency of functioning and accountability (Istanbul, 26-27 March) – evaluators Yves-Marie DOUBLET and Ömer Faruk GENÇKAYA
- ▶ Visit by delegations from the Office of the Prosecutor General of Kyrgyzstan and the OSCE centre in Bishkek (Strasbourg, 27 March) - Secretariat
- ▶ EU/Council of Europe joint project - Protection of the Rights of Entrepreneurs in the Russian Federation from Corrupt Practices (PRECOF-RF): Visit of the Federal Business Ombudsman of the Russian Federation (Strasbourg, 9-10 April) – Secretariat
- ▶ Working Group to prepare a draft Action Plan for follow-up to the CDPC's White Paper on Transnational Organised Crime (Paris, 17 April and 17-18 September) – delegation member Elena KONCEVICIUTE, Secretariat
- ▶ Exchange of views between GRECO's President and the Committee of Ministers (1231<sup>st</sup> meeting of the ministers' deputies, Strasbourg 17 June) – President
- ▶ Directorate of Internal Oversight focus group on cooperation with NGOs in standard setting and monitoring: factors of success (19 June) – Secretariat
- ▶ Venice Commission/Institute of International Relations Prague round table – Past and present-day illustration: similarities, differences, applicable standards (Prague, 7 September) – delegation member Elena KONCEVICIUTE
- ▶ Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) 48<sup>th</sup> Plenary Meeting – presentation of the work of GRECO's Gender Equality Rapporteur (14 September) – Secretariat
- ▶ 7<sup>th</sup> Prague Forum: Towards a Pan-European Platform on Ethics, Transparency and Integrity in Education (Prague, 1-2 October) – Vice-President
- ▶ Council of Europe/Ministry of Justice of the Czech Republic/EEA and Norway Grants conference: Developing trends in combating corruption, money laundering and recovering criminal assets in Europe (Prague, 20-21 October) – Vice-President, evaluators Nina BETETTO and Yves Marie DOUBLET, Secretariat
- ▶ EU/Council of Europe joint project – PRECOF-RF: Roundtable on Protection of Business from Corrupt Practices – National experience of the Business Ombudsman (St. Petersburg, 3 November) – Secretariat
- ▶ Informal meeting with the Presidents and Executive Secretaries of Monitoring and Advisory Bodies

convened by the Secretary General (Strasbourg, 23 November) – President, Secretariat

- ▶ Gender Equality Commission – Training session and exchange of views (Strasbourg, 17-18 November) – Gender Equality Rapporteur Helena LIŠUCHOVÁ
- ▶ PACE Committee on Rules of Procedure, Immunities and Institutional Affairs and Parliamentary Project Support Division seminar – Funding of political parties and electoral campaigns: legislation and control mechanisms (Paris, 10-11 December) – delegation member Jens-Oscar NERGARD and KNAB expert Inga JAUNSKUNGA
- ▶ Preparation of a corruption risk assessment report with respect to the public prosecution service of the Republic of Moldova (ongoing) – former Head of the Danish Delegation in GRECO Flemming DENKER

## Individuals

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The Executive Secretary and/or other members of the Secretariat met with:

- ▶ Mirza USTAMUJIĆ, Member of the House of Representatives, Parliament of Bosnia and Herzegovina (15 January)
- ▶ Vitālijs ORLOVS, Chair of the Mandate, Ethics and Submission Committee of the parliament of Latvia (22 January)
- ▶ Claude MORAES – Member of the European Parliament, Chair of the Committee on Civil Liberties, Justice and Home Affairs (4 March)
- ▶ Sabine ZWAENEPOEL, Deputy Head of Fight against organised Crime Unit, European Commission (17 March)
- ▶ Romain COLAS, member of parliament, special rapporteur, Finance Committee of the French parliament (31 March)
- ▶ Elodie CUERQ, Communication and Institutional Relations and David GINOCCHI, Legal Affairs, *Haute autorité pour la transparence de la vie publique*, France (21 April)
- ▶ Andrew BRADLEY, Director, Office of International IDEA to the EU (22 April)
- ▶ Artem SYTNIK, Director of the National Anti-Corruption Bureau of Ukraine and Yegor SOBOLEV, Head of the Anti-Corruption Committee of the

Verkhovna Rada at the invitation of the Secretary General of the Council of Europe (22 June)

- ▶ Aram KHAGHAGHORDYAN, PhD student at the Hertie School of Governance (24 June)
- ▶ Silvio GONZATO, European External Action Service (EEAS), Director of Human rights and Democracy (9 July)
- ▶ Eric FREJABUE and Dragana GLUHOVIC, advisers, Rule of Law Section, Delegation of the European Union to Bosnia and Herzegovina and European Union Special (23 September)
- ▶ Tina GEWIS, Chief Rule of Law Unit, OSCE/ODIHR (21 October)
- ▶ Jean Pierre CHABOT, Program Director, Global Organization of Parliamentarians against Corruption - GOPAC (19 November)
- ▶ Yves LETERME, Secretary General, International IDEA and Andrew BRADLEY, Director, Office of International IDEA to the EU (20 November)
- ▶ Francesco MERLONI, Italian Anti-Corruption Authority (ANAC) at the invitation of the Secretary General of the Congress of Local and Regional Authorities of the Council of Europe (8 December)
- ▶ Laura FERRARA, MEP and Rapporteur of the report on organised crime and corruption (16 December)

## Briefings on GRECO

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Study visitors to the Council of Europe

- ▶ Senior officers of the Gendarmerie, France (14 January)
- ▶ Press services of ministries, Belarus (11 February)
- ▶ Council of Europe new staff and trainees briefing (12 March)
- ▶ Local Democracy Agency and Young Lawyers' association, Georgia (13 May)
- ▶ Presidents of courts of appeal, Poland (20 May)
- ▶ Judges, Sweden (20 May)
- ▶ *Ecole nationale de la magistrature*, France (24 June)
- ▶ Civil society representatives (NGOs, media) and academics from the Kyrgyz Republic. (9 July)
- ▶ Constitutional Court of Moldova (9 July)
- ▶ Institute for Human Rights of Barcelona (29 September)

## APPENDIX III – GRECO Secretariat

(within the Directorate General Human Rights and Rule of Law, Information Society and Action against Crime Directorate)

### Executive Secretary

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Wolfgang Rau, Executive Secretary

Elspeth Reilly, Personal assistant

Penelope Prebensen, Administrative assistant

### Section I

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Björn Janson, Deputy to the Executive Secretary

Laura Sanz-Levia, Administrator

Sophie Meudal-Leenders, Administrator

Valentina d'Agostino, Seconded Official

Marie-Rose Prevost, Assistant

#### Evaluation and compliance procedures in respect of:

Albania

Belarus

Bosnia and Herzegovina

Croatia

Denmark

Estonia

Finland

Hungary

Iceland

Ireland

Italy

Malta

Montenegro

Poland

Russian Federation

San Marino

Serbia

Slovenia

Spain

Sweden

"The former Yugoslav Republic of Macedonia"

Turkey

Ukraine

United Kingdom

United States of America

### Section II

---

Christophe Speckbacher, Head

Michael Janssen, Administrator

Liubov Samokhina, Administrator

Laure Pincemaille, Assistant

#### Evaluation and compliance procedures in respect of:

Andorra

Armenia

Austria

Azerbaijan

Belgium

Bulgaria

Cyprus

Czech Republic

France

Georgia

Germany

Greece

Latvia

Liechtenstein

Lithuania

Luxembourg

Republic of Moldova

Monaco

Netherlands

Norway

Portugal

Romania

Slovak Republic

Switzerland

### Central Office – logistics

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Penelope Prebensen, Head

Marie-Rose Prevost

Laure Pincemaille



Corruption represents a serious and ongoing threat to the functioning of democratic institutions and is an affront to human rights which are at the very heart of the values of the Council of Europe.

The Group of States against Corruption (GRECO) monitors the implementation of the package of anti-corruption instruments of the Council of Europe. Within the mechanism, 49 member States – the entire European continent and the United States of America - are working together to improve their capacity to prevent and fight corruption.

GRECO's evaluations comprise an in-depth analysis of legislation, institutional set-ups and anti-corruption policies and practices which is confronted with the reality on-site during evaluation visits to each member State. The visits introduce an adversarial element into the process which is critical for its overall credibility, and constructive peer pressure comes into play during the reviews carried out by the GRECO Plenary.

The recommendations addressed to each member State form the core of GRECO's evaluation reports. Their implementation and impact is assessed in the various stages of GRECO's compliance procedures which are designed to ensure that effective reform is actively sought and put into practice by the countries.

[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



Group of States against Corruption  
Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE