



CORRUPTION PREVENTION
CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)
AND LAW ENFORCEMENT AGENCIES

Mid-term evaluation of results and trends

GRECO
Anti-corruption Body
of the Council of Europe

**GROUP OF STATES AGAINST
CORRUPTION**
5th Evaluation Round

Elena Koncevičiūtė

Contents

Introduction	3
Methodology and approach	3
Section One. Overview of the 5 th Evaluation Round.....	6
Section Two. Central Governments (Top Executive Officials)	10
Section Three. Law Enforcement Agencies.....	15
Conclusions	21
Horizontal findings	21
Similar and diverging trends	22
Key conclusions.....	23
Final remarks.....	24
Figure 1. Dynamics of Transparency International CPI of selected countries in 2012-2018	7
Figure 2. Eurobarometer Corruption 2017: Difference between Perception and Experience of Corruption	8
Figure 3. Distribution of Recommendations issued to Top Executives per Topic	10
Figure 4. Eurobarometer Corruption 2017: Effectiveness of Government vs Police to deal with Corruption.....	15
Figure 5. Eurobarometer Corruption 2017: Perception of Corruption among Political Parties Vs. Police and Customs	16
Figure 6. Distribution of Recommendations issued to Law Enforcement per Topic	17
Figure 7. Recommendations per Topic issued to Top Executive Officials and Law Enforcement	22
Figure 8. Similar and Diverging Trends of GRECO Recommendations issued to Two Groups.....	23

"The only thing necessary for the triumph of evil is for good men to do nothing."

Edmund Burke

Introduction

The Group of States against Corruption (GRECO) is the Council of Europe's flagship anti-corruption body. It embraces all 48 European States as well as the United States of America (USA). It fulfils its mandate by monitoring compliance of these States with the Council of Europe's anti-corruption standards, making sure that they are effectively implemented.

GRECO launched its 5th evaluation round examining "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies" in March 2017 and adopted the first evaluation reports in December 2017.

In choosing this focus, GRECO member states recognized the importance of preventing corruption from the very top level where integrity and the *political will* to address corruption effectively should be clearly demonstrated in every aspect of leadership behaviour to retain and/or regain public trust for democracies to function. Furthermore, the countries' law enforcement agencies that are given the *powers* to deal with crime, should be also aware of the possible risks that may arise if such powers are abused or integrity is comprised, and should address such risks properly.

The fifth evaluation round comes as a logical continuation after the previous round that examined the issues of corruption prevention in respect of members of parliament, judges and prosecutors. By closing the fourth evaluation report, GRECO acknowledged the solid foundations laid in most jurisdictions to tackle corruption, including examples of good (even excellent) practices, yet recognized that the pace of effective implementation remained slow¹. In this way, it also sent a signal to the member States and its governments to be more vigorous in accelerating the speed of actions which they are able perform if they chose to do so.

Methodology and approach

By April 2019 GRECO examined and adopted twelve evaluation reports on Estonia, Finland, Iceland, Latvia, Luxembourg, Malta, Netherlands, North Macedonia, Poland, Slovenia, Sweden, and the United Kingdom, all made public at the time the study was written, except for North Macedonia. By the time the study was written, none of the countries had a chance yet to report on their progress in fulfilling the recommendations given during this round as this is done eighteen months after the adoption of the evaluation report.

The fifth round followed the approach GRECO had since the very beginning: countries under evaluation had to fill out a thematic questionnaire, a group of experts nominated by the peers and assisted by the GRECO Secretariat went to examine the situation on the ground, and then the report with recommendations was adopted by the plenary. The plenary is a deciding body which needs to be convinced both by the country evaluated and the evaluators that the report in its every detail and its

¹ "Group of States against Corruption (GRECO) 18th General Activity Report (2017). Strasbourg, adopted by GRECO at its 79th Plenary meeting, 19–23 March 2018," 14, accessed on 10 March 2019, <https://rm.coe.int/eighteenth-general-activity-report-2017-of-the-group-of-states-against/16807c0e91>.

entirety is fair, merit-based, consistent and fully in line with the standards. A detailed list of GRECO's reference texts, standards and questionnaire used for the fifth round is available on GRECO's website². The quality of the reports strongly depends on the professionalism of experts, dedication of the GRECO Secretariat, guidance of the plenary discussions by the GRECO President, vigilance of the plenary, and - most importantly - on the openness of the country assessed and the level of its commitment to pursue the necessary changes. Undoubtedly, the ultimate impact of GRECO is the actual *implementation* of recommendations in each of its Member States.

The fifth evaluation round targets prevention measures with regard to two major groups: central governments and law enforcement.

As stated in the questionnaire of the 5th evaluation round³, the term 'central governments' includes persons who are entrusted with top executive functions at national level, including heads of state, heads of central government, members of central government (e.g. ministers), as well as other political appointees who exercise top executive functions such as deputy ministers, state secretaries, heads/members of a minister's private office ('cabinet ministériel') and senior political officials as well as political advisors, depending on the system of the country.

With regard to whether or not the head of state would be covered by the 5th evaluation round, it was decided that it should depend on the top executive functions exercised, namely, whether or not he or she "actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions."⁴

Concerning law enforcement agencies, the evaluation focuses on officials of selected bodies performing core law enforcement functions on the national level. The maximum number of such bodies is three, as proposed by the member state concerned, and can include border police, but should exclude tax authorities or customs.⁵

Similar to the 4th round, this evaluation round tackles corruption prevention and integrity issues with regard to the two groups by examining the following themes:

- Ethical principles and rules of conduct
- Conflict of interest and enforcement of the rules regarding conflicts of interests
- Prohibition or restriction of certain activities
- Declaration of assets, income, liability and interests
- Awareness

² "Group of States against Corruption. Reference texts of Fifth Evaluation Round," accessed on 12 March 2019, <https://www.coe.int/en/web/greco/round5/reference-texts>.

³ "Questionnaire of the 5th evaluation round. Strasbourg, adopted by GRECO at its 73rd Plenary Meeting on 17–21 October 2016," accessed on 14 March, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168070cf7d>

⁴ Ibid, 2.

⁵ Ibid.

It is important that the standards are pursued consistently and comprehensively with regard to all the branches of the government. Some of these were already addressed during the previous round.

It is also noteworthy that GRECO's approach in evaluating the countries is merit-based and tailored to the actual need and the overall situation in the country concerned. In other words, as stated in the questionnaire, an absence of some element (e.g. a concrete body to verify conflicts of interests) does not necessarily lead to a recommendation to fill the 'gap'⁶.

Prior to this evaluation round, GRECO updated its Rules of Procedure to be able to act in exceptional circumstances and on *ad hoc* basis when it receives information from the Head of delegation of a respective member or a Council of Europe body indicating that an institutional reform, legislative initiative or procedural change by that member may result in that member's serious violation of a Council of Europe anti-corruption standard which has been the subject of any GRECO evaluation round⁷. In that way, it became more vigilant concerning the deficiencies that were first regarded as 'fixed' while the countries were under scrutiny but reverted after the evaluations finished. Moreover, during this round GRECO followed up on some of the issues already addressed before, e.g. with regard to the issue of immunities from prosecution, protection of whistleblowers, codes of conduct or restrictions of moving to the private sector, making sure that the gaps are closed.

The study presents an overview of the first eleven countries that have undergone an evaluation under the fifth evaluation round (and made their reports public) in order to identify the trends that are pursued in relation to the issues addressed. It should be noted that the study could not yet identify the difficulties and successes that the countries have encountered in following the recommendations as they did not have a chance to provide the relevant information: their responses are expected within 18 months after the adoption of the initial report.

The study follows the structure of the evaluation process itself as well as a more comprehensive study conducted after the fourth evaluation round⁸. It consists of three main sections: section one provides an overview of the whole evaluation in relation to two groups; section two and three review the findings in relation to top executives and law enforcement. It concludes with horizontal findings, key conclusions and final remarks.

⁶ Questionnaire of the 5th evaluation round, 3.

⁷ "Group of States against Corruption. Strasbourg, adopted by GRECO at its 1st Plenary Meeting. Last amendment regarding Rule 34 adopted on 19-23 June 2017," accessed on 16 March 2019, <https://rm.coe.int/rules-of-procedure-adopted-by-greco-at-its-1st-plenary-meeting-strasbo/168072bebd>.

⁸ "Corruption Prevention. Members of Parliament, Judges and Prosecutors. Conclusions and Trends. Group of States against Corruption. 4th Evaluation Round. Strasbourg, October 2017," accessed in April 2019, <https://rm.coe.int/corruption-prevention-members-of-parliament-judges-and-prosecutors-con/16807638e7>.

Section One. Overview of the 5th Evaluation Round

As a continuation of the 4th evaluation round, built around the leitmotif of integrity that must be internalized and seen to be internalized by MPs, judges and prosecutors, the 5th round deals with the same theme. This time it looks at two groups, top executives, who should demonstrate irreproachable behaviour and leadership, and law enforcement, who are expected to be bound by the highest anti-corruption standards themselves while having the authority of compelling others to observance of or compliance with the law.

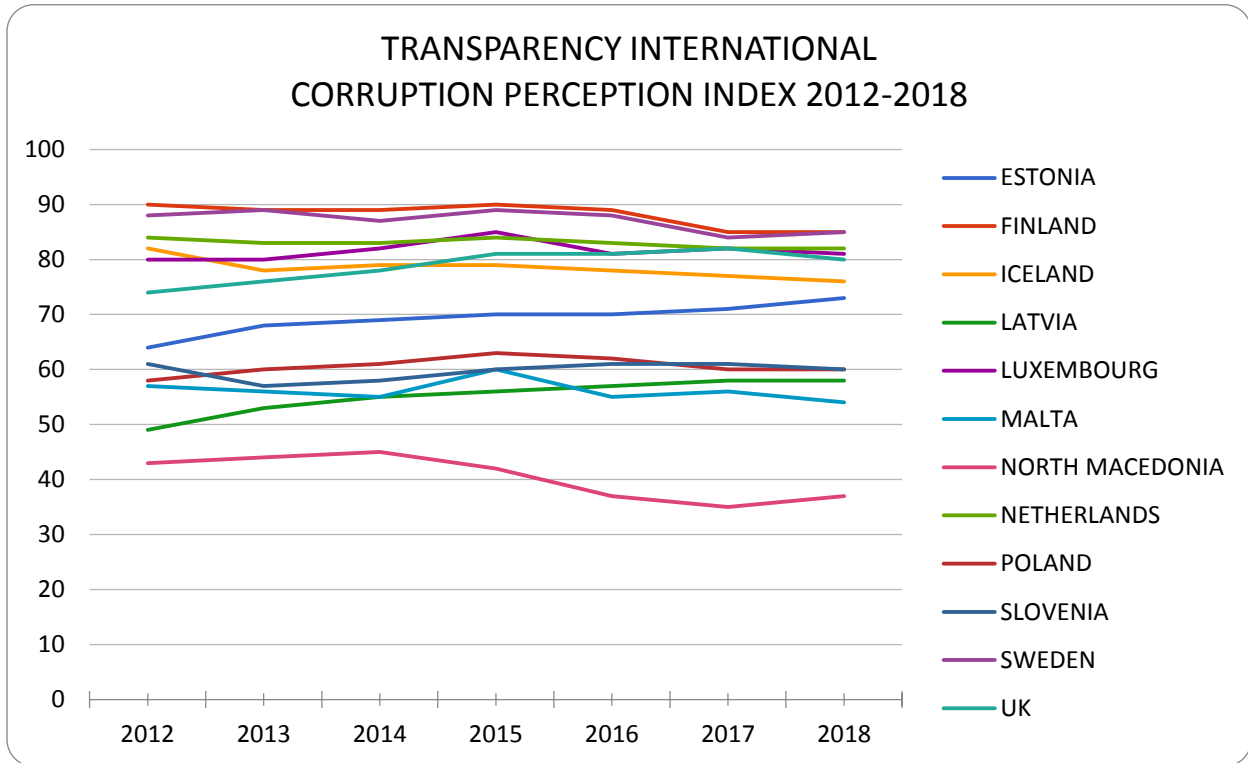
The two groups chosen by GRECO are different in scope and powers, yet their ability to maintain and demonstrate integrity as well as their capacity to cope with their internal risks are vital for a robust functioning of democracies based on the fundamental values of the rule of law and human rights.

The 5th evaluation round, like all previous GRECO evaluations, first examined the context in which countries operate with regard to the perceptions and experience of corruption. The various surveys conducted both internationally and locally do not serve as the key evidence to the findings, nor it is a GPS, but mostly as a weathercock showing the direction of “prevailing winds” that could require closer attention.

The lion’s share of the twelve countries so far examined by GRECO during the 5th evaluation round are mostly good performers, as seen by their own people, on Transparency International Corruption Perception Index (See Figure 1). During the recent years they have been floating steadily, with some variations of up or down, among their peers, yet still above the global average (around 43)⁹. Many of them are perceived by their people as top performers in the world.

⁹ Perceptions are measured on a scale from 0 to 100, where 0 is highly corrupt and 100 is very clean.

Figure 1. Dynamics of Transparency International CPI of selected countries in 2012-2018



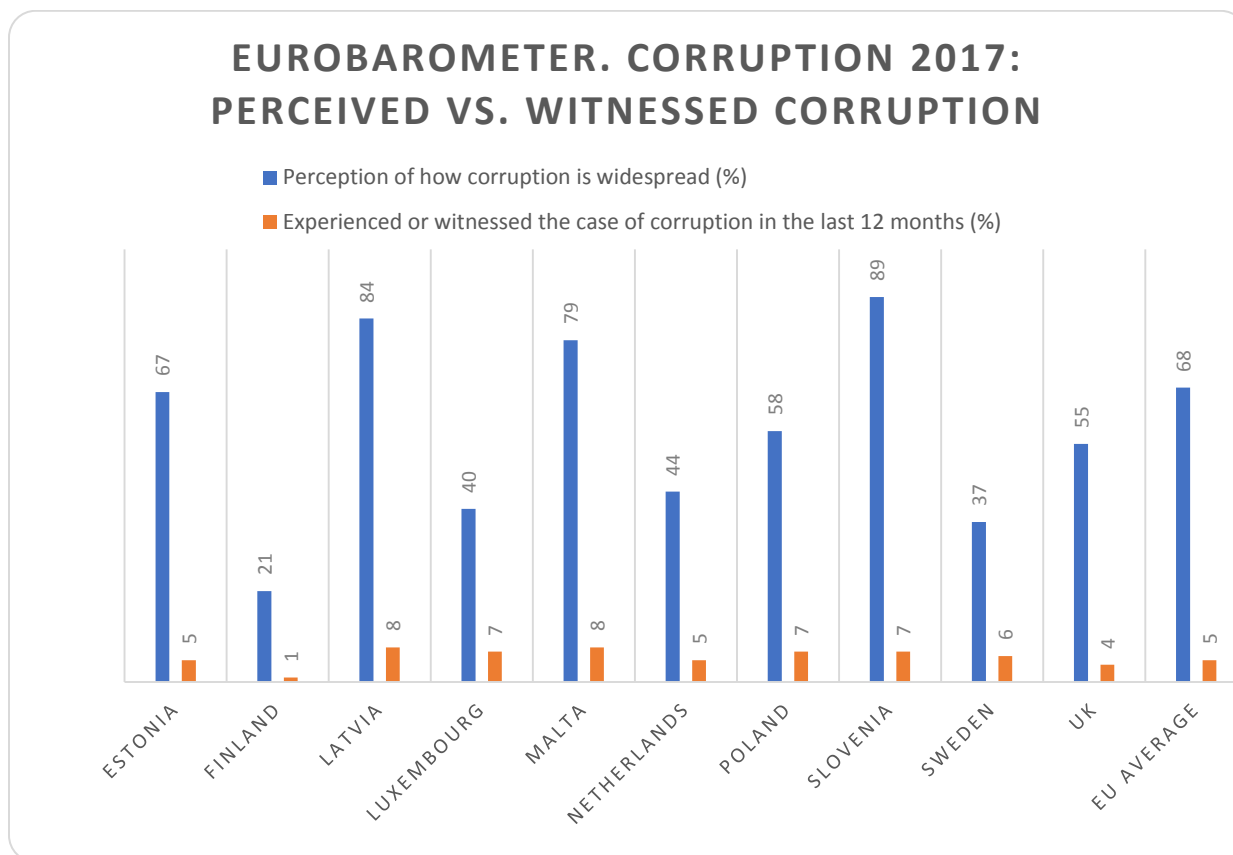
Source: Created using the data of Transparency International¹⁰

Another source, often used by GRECO in trying to get a sense of the general context in the countries evaluated, in particular the European Union Member States, is the Eurobarometer. It shows both perception and experience of corruption as disclosed by the people living in those countries. Figure 2 below created using the data of the Eurobarometer of Corruption 2017 reveals the yawning gap between the perception and experience of corruption in selected Member States by more than ten times. If perceptions are so different from the actual experience of corruption, does that mean that they are wrong? Or does that mean that if people actually experience corruption, they mostly experience petty, less hidden corruption, yet what gets disclosed and widely covered by the media is more grand corruption, which, in effect, contributes more to public perception?

For GRECO, these surveys are interesting but not very informative in targeting concrete issues that it examines. When dealing with individual countries, it compares the figures to the European Union average which serves only as an orientation of whether it is 'below' or 'above' the overall body temperature in the EU, making no judgement.

¹⁰ Descriptions of surveys are available on the website of Transparency International, <http://www.transparency.org>

Figure 2. Eurobarometer Corruption 2017: Difference between Perception and Experience of Corruption



Source: Created using the data of Special Eurobarometer 470 Corruption Report 2017¹¹

In more concrete terms, the role of GRECO in relation to the two groups assessed in the countries is to see what the countries have and what they should put in place to strengthen the existing systems or build them to last so that they could be better equipped to withstand both perceived and actual corruption in the long run.

Similar to the previous round, the aim of the 5th round is to make countries become more proactive and strategic in thinking ahead with regard to the two groups selected. The approach is to raise awareness among them so that they could have a closer look at themselves to maintain their good practices or get used to healthy preventive routines in order to prevent negative developments in the future.

It is undoubtedly very important for the two groups to uphold high ethical standards and take active steps in eliminating the risks not only because that is the only right way to do but also because they are themselves dependent on the public trust to survive. If government officials do not demonstrate the

¹¹ Special Eurobarometer 470 on Corruption commissioned by the European Commission, October 2017.

leadership to seek integrity, pursue anti-corruption policy and minimise their own conflicts of interest, they will become vulnerable to failure. Likewise, if law enforcement curtails the risks of its own hiding them behind the blue wall of silence and if they fail to protect those who warn them against bad practices, they will soon become victimised by their own actions and lose allies in their fight against crime.

Section Two. Central Governments (Top Executive Officials)

Setting the proper tone with regard to anti-corruption should start from top executives who should lead by example and with integrity. In order to assess how effective they are in preventing corruption and promoting integrity, GRECO decided to have the central governments (top executive officials) under the spotlight. It defined them as follows:

Central governments' includes persons who are entrusted with top executive functions at national level, including heads of state, heads of central government, members of central government (e.g. ministers), as well as other political appointees who exercise top executive functions such as deputy ministers, state secretaries, heads/members of a minister's private office ('cabinet ministériel') and senior political officials as well as political advisors.

With regard to whether or not the head of state would be covered, much emphasis was put on the actual functions exercised, i.e. whether or not they are active, regular, decisive or more ceremonial.

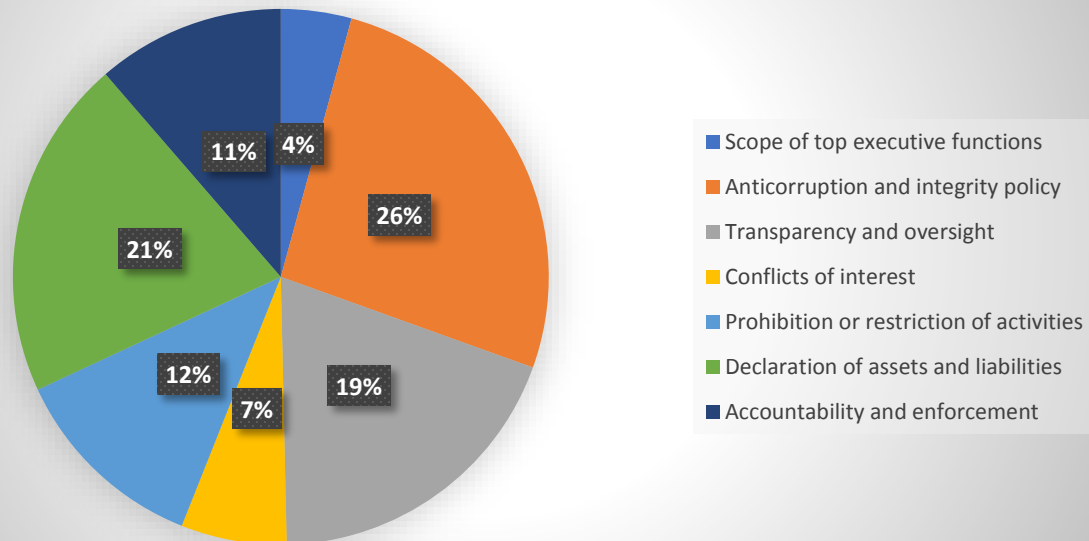
The head of state of none of the countries so far evaluated was deemed as falling with the category of "persons entrusted with top executive functions", even if he or she carried out some limited executive powers (e.g. with regard to defence and security matters). Irrespective of that, GRECO would invite countries to take into consideration the comments and recommendations given to other top officials to the extent that they might also affect duties of the head of state.

Irrespective of these differences in the form of government and traditions of operation, GRECO's aim during this round was to see how well the persons entrusted with top executive functions are prepared to promote integrity and deal with their own corruption risks. With that in mind, it analysed successes and pointed at vulnerabilities under the following major topics (categories) (See Figure 3):

- Scope of top executive functions
- Anticorruption and integrity policy, regulatory and institutional framework
- Transparency and oversight of executive activities of central government
- Conflicts of interest
- Prohibition or restriction of certain activities
- Declaration of assets, income, liabilities and interests
- Accountability and enforcement mechanisms

Figure 3. Distribution of Recommendations issued to Top Executives per Topic

Recommendations per topic



Anticorruption and integrity policy, regulatory and institutional framework

This topic of evaluation attracted the highest number of recommendations so far. Although many countries had some integrity policies in place, most of them needed to have top executives targeted specifically. They were asked to analyse and mitigate the risks this group of officials is exposed to and build monitoring and compliance measures to help them achieve and *be seen to* achieve better progress in preventing corruption and instilling integrity. All the countries reviewed so far were requested to take a closer look at the codes of conduct for top executive officials. Half of them were recommended to adopt or consolidate a single document, providing clear guidance on conflicts of interest and other integrity related matters, coupled with effective mechanism of supervision (in some cases sanctions). In some of the countries evaluated, the scope of top public officials subject to the provisions of the code of conduct had to be broadened to include, for instance, political advisers or senior civil servants appointed to political positions. Much emphasis was put on the monitoring of enforcement of such codes, coupled with confidential counselling, regular and compulsory training. Many of the general issues mentioned under this topic (e.g. on lobbying, gifts and conflicts of interest) were moulded into more detailed recommendations under the other themes, hence reinforcing the need to take more action in this direction. In one case, GRECO prudently pointed at the conflict of interest with regard to the functions of a body dealing with this topic, as it was both put in charge of providing confidential advice *and* at the same time enforcing the standards of conduct in public office.

Scope of top executive functions

With regard to the scope of top executive functions, GRECO has chosen to explore a huge variety of people performing them, including all types of political advisors, irrespective of whether or not they are paid.

While most top government officials are public figures and generally known to the public, the way their advisers are selected and operate require more transparency and better regulation. Some countries were proposed to introduce vetting procedures based on integrity criteria as part of the recruitment process of political advisers, others were asked to make the names of such people, even if they are not paid, published online. GRECO was also firm about abolishing the practice of such advisory officials giving instructions to civil servants and professional staff. Some countries were tasked to pay closer attention to the tradition of direct and discretionary appointment to political positions, limiting it to the minimum.

Transparency and oversight of executive activities of central government

Access to information and transparency of law-making process are still the areas that require GRECO's intervention, despite the numerous recommendations that countries received in the past. It had to remind them about the overall principle of transparency of public documents and that it should be guaranteed in practice. A very important document in that respect is the Council of Europe Convention on Access to Official Documents¹² and countries are reminded to step up their efforts in ratifying it GRECO reiterated that any exceptions to the rule of public disclosure should be minimum and that outcomes of public participation procedures, including the lists of participants, should be public information. Public scrutiny is of golden value also with respect to public procurement, in particular concerning large public contracts, and therefore should not be obstructed.

Against this backdrop, GRECO alerted many countries with regard to the absence of rules or guidance on how persons with top executive functions should engage with lobbyists seeking to influence the public decision-making process. It asked many countries to ensure transparency in this area, asking them to require disclosure of such contacts and the subject matters discussed, providing sufficient amount of detail. It referred to a European standard in this area, Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making (2017)¹³.

Conflicts of interest

Most of the countries reviewed had to ask their governments to improve the management of conflicts of interest, clearly defining the rules and procedures of abstention, asking them to be more alert and report conflicts of interest that could be linked to their past or future situations, as well as happening ad hoc. Much emphasis was placed on advisory, monitoring and compliance mechanisms with regard to conflicts of interests.

Some positive initiatives were acknowledged with regard to using computer applications that can reveal financial connections between contractors and contractees on the basis of open data. Undoubtedly, such data visualisation tools that help anyone to see the links between those in power and the public contracts that are directly or indirectly associated with them are extremely valuable in untangling the complexity of relationships.

¹² "Council of Europe Convention on Access to Official Documents, CETS No. 205, Tromsø, 18 June 2009," accessed on 2 April 2019, <https://rm.coe.int/1680084826>.

¹³ "Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making. Strasbourg, July 2017," accessed on 2 April 2019, <https://rm.coe.int/legal-regulation-of-lobbyingactivities/168073ed69>.

Prohibition or restriction of certain activities

Incompatibilities, gifts, misuse of confidential information and restriction of post-employment activities were thoroughly assessed by GRECO under this topic. It is alarming to see that in some instances top executives are suspected of operating in two fronts, both in the public and private sectors, running their business operations through off-shore schemes. With regard to side activities, many countries were asked to review the rules that they have and spell out in greater detail the activities that can be exercised by the persons entrusted with top executive functions and those which should be excluded. In relation to gifts and other benefits, GRECO reiterated the importance of strict limitations, highlighting the danger of exchange of favours in situations where there are too close relations between politicians and the business community.

In that respect, many of the countries reviewed were asked to improve the situation with regard to the mobility of top executive officials to the private sector (so-called “revolving-doors”). In some cases, the situation could have been remedied years ago, should the warning signals that GRECO had sent were listened to. In other instances countries were asked to improve their systems by studying their deficiencies, introducing adequate sanctions for breaches of the rules of post-employment restrictions, and giving more powers and resources to the body in charge of providing advice on this issue. It remains highly important to continue dealing with this issue as it has a major impact on confidence in the public sector.

Declaration of assets, income, liabilities and interests

Although quite straightforward, this topic attracted much attention from GRECO resulting in a number of recommendations addressed to all the countries evaluated. Despite multiple attempts to introduce financial disclosure obligations as a tool of transparency, a few deficiencies exist with regard to the scope of persons covered by this requirement, their timely publications and most importantly, with regard to their in-depth, independent and systematic checking. Some countries had to ask political advisers associated with a minister’s decision-making to fill in declaration of interests, others were to define more specifically which interests were to be declared, making them more detailed and standardised. Almost all the countries reviewed were asked to think about widening the scope of declarations of interests to include information on the spouses and dependent family members of top executives. It is alarming to see the schemes that some government members resort to in order to keep assets out of reach of disclosure, for example, by transferring them to spouses or relatives, using off-shore accounts, making their dependents take loans to control business groups. By closing those gaps in the scope of declarants and the interests they have, the countries will hopefully have more information that could be checked and cross-checked for effective and dissuasive counter measures to be taken whenever necessary.

Accountability and enforcement mechanisms

Persons entrusted with top executive functions have many decision-making powers which should be exercised and seen to be exercised properly, in accordance with the highest standards of integrity. Political will demonstrated by the leaders of authority is an essential part of any anti-corruption reform to be sustainable. With that in mind, GRECO paid huge attention to the issues of accountability and enforcement with regard to anti-corruption measures at the very top. If leaders are not critical of themselves, how can all the others be demanded to follow the rules? Under the topic of accountability and enforcement, GRECO looked at the obstacles that exist with regard to criminal, administrative

proceedings and immunities to make top executives accountable. It issued a number of recommendations to the countries to strengthen their public integrity bodies and law enforcement with the proper means and possibilities to conduct inquiries and investigations against top officials. GRECO was convinced that codes of conduct for top officials would benefit from a robust mechanism of supervision and sanction. It also believed that the outcomes of violation procedures undertaken in respect of persons entrusted with top executive functions should be made known to the public. In some instances, it encouraged the law enforcement to be more proactive in dealing with crimes committed by top executives and start investigations on the basis of reasonable suspicion rather than having irrefutable evidence. In one case it had to reiterate its recommendations given during the very first round with regard to making it possible by the law enforcement, subject to judicial authorisation, to use special investigative techniques in investigating corruption and, if lawfully obtained by such means, evidence should be admissible in court.

More than fifteen years after the subject of immunities was dealt with in GRECO's First Evaluation Round, it still had to remind some of the countries about the golden standard laid down in the Twenty Guiding Principles for the Fight against Corruption¹⁴ stipulating that *immunities should be limited to the extent necessary in a democratic society so as not to hamper the investigation, prosecution or adjudication of corruption offences*. It goes without saying that this rule also applies to criminal investigations against ministers suspected of corruption crimes. GRECO asked countries to limit the privileges of prosecution enjoyed by ministers with regard to acts performed outside their official capacity and insisted on objective and fair criteria for uplifting the immunities. GRECO was also concerned that constitutional tribunals are used to impede the prosecution of corruption before the ordinary courts, asking to abandon this detrimental practice. Undoubtedly, more needs to be done with regards to abandoning the privileges of top officials and increasing their accountability.

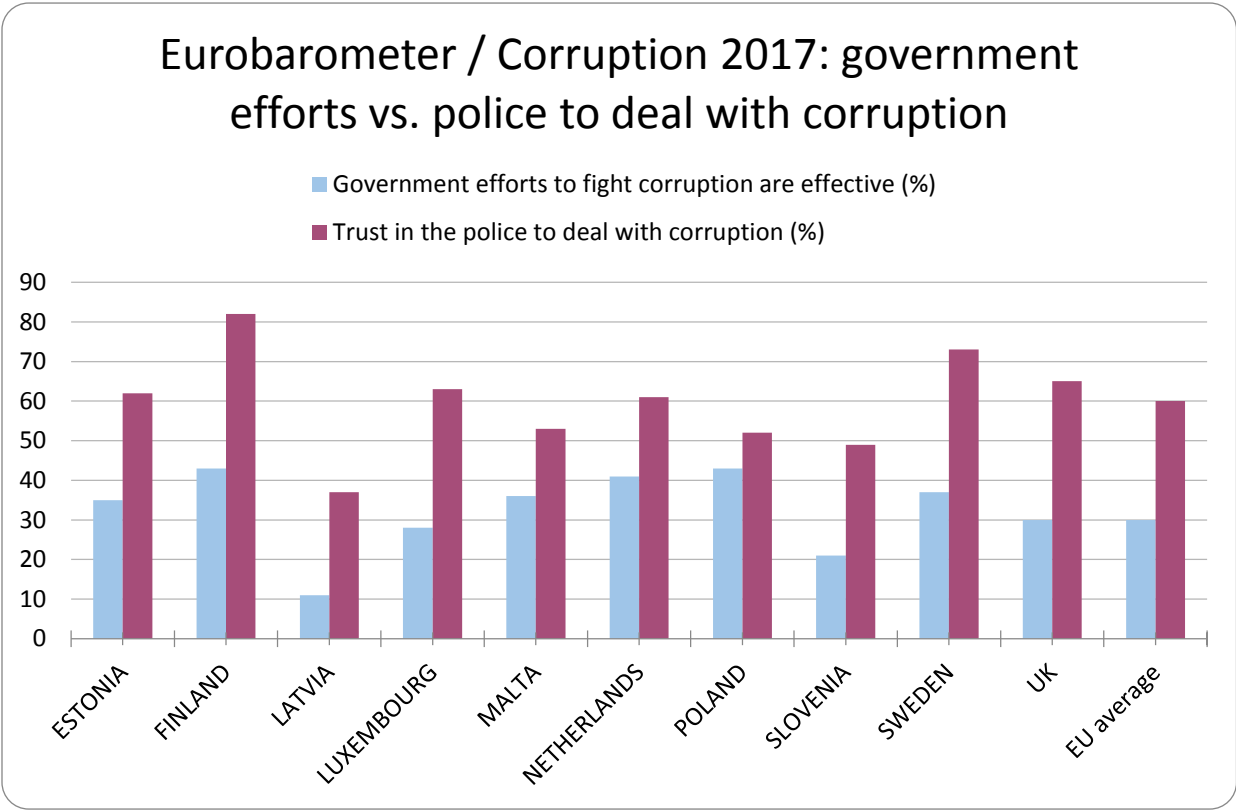
¹⁴ "Resolution (97)24 of the Committee of Ministers, On the Twenty Guiding Principles for the Fight Against Corruption. Strasbourg, 6 November 1997," accessed on 2 April 2019, <https://rm.coe.int/16806cc17c>.

Section Three. Law Enforcement Agencies

Law enforcement agencies, be it police, the border police or military police, have the authority and powers to tackle crime. Although bound by the hierarchical structure, they should ensure that their investigations are independent and free from any undue political or other pressure. Given the authority to enforce the law, they should be constantly aware that they are subject to very strict integrity standards and that no exceptions could apply with regard to equality before the law.

With regard to public perception in the countries so far reviewed (excluding Iceland as a non-EU Member State), people living in all Member States are convinced that their law enforcement is better equipped to deal with corruption than their governments (see below Figure 4). In six of these countries, perception of corruption in the police and customs is very low, well below the EU average of 31 per cent, and in almost all cases it is much better than with regard to political parties (see Figure 5).

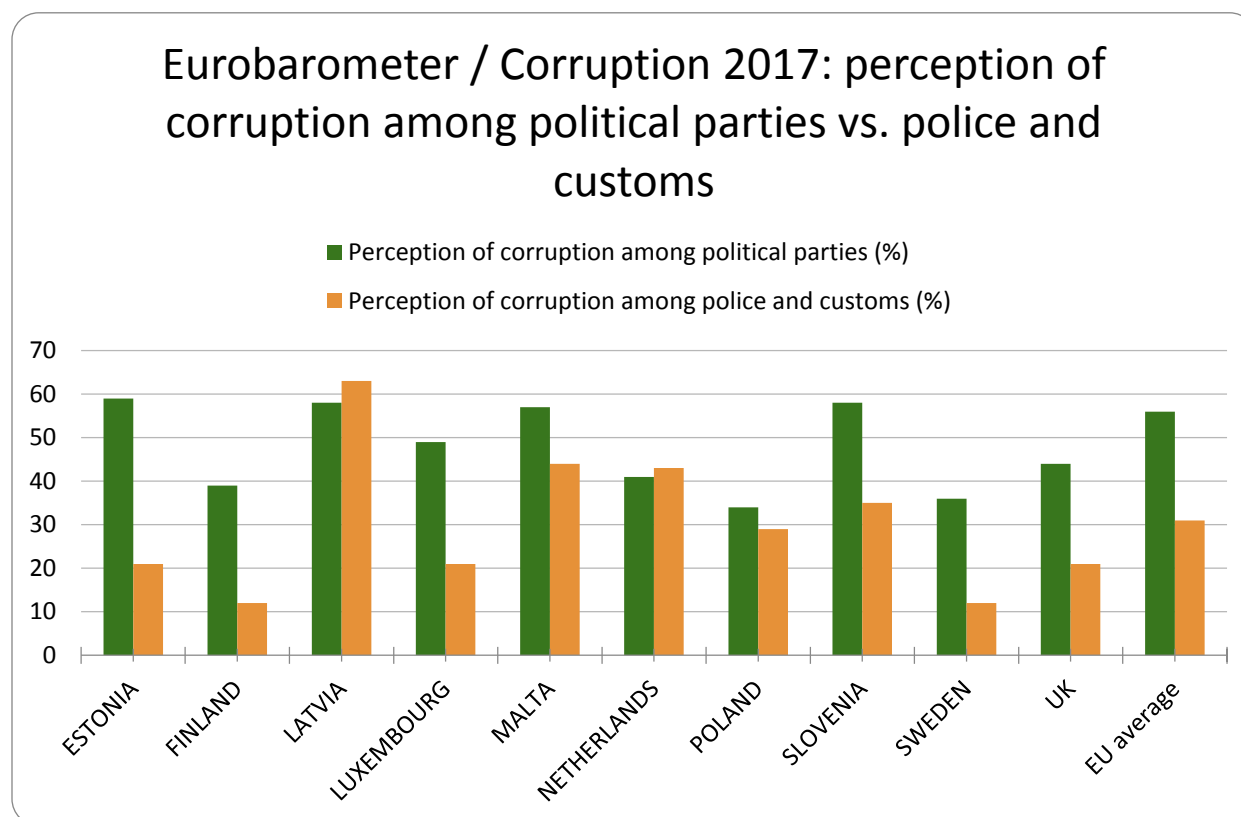
Figure 4. Eurobarometer Corruption 2017: Effectiveness of Government vs Police to deal with Corruption



Source: Created using the data of Special Eurobarometer 470 Corruption Report 2017¹⁵

¹⁵ Special Eurobarometer 470 on Corruption commissioned by the European Commission, October 2017.

Figure 5. Eurobarometer Corruption 2017: Perception of Corruption among Political Parties Vs. Police and Customs



Source: Created using the data of Special Eurobarometer 470 Corruption Report 2017¹⁶

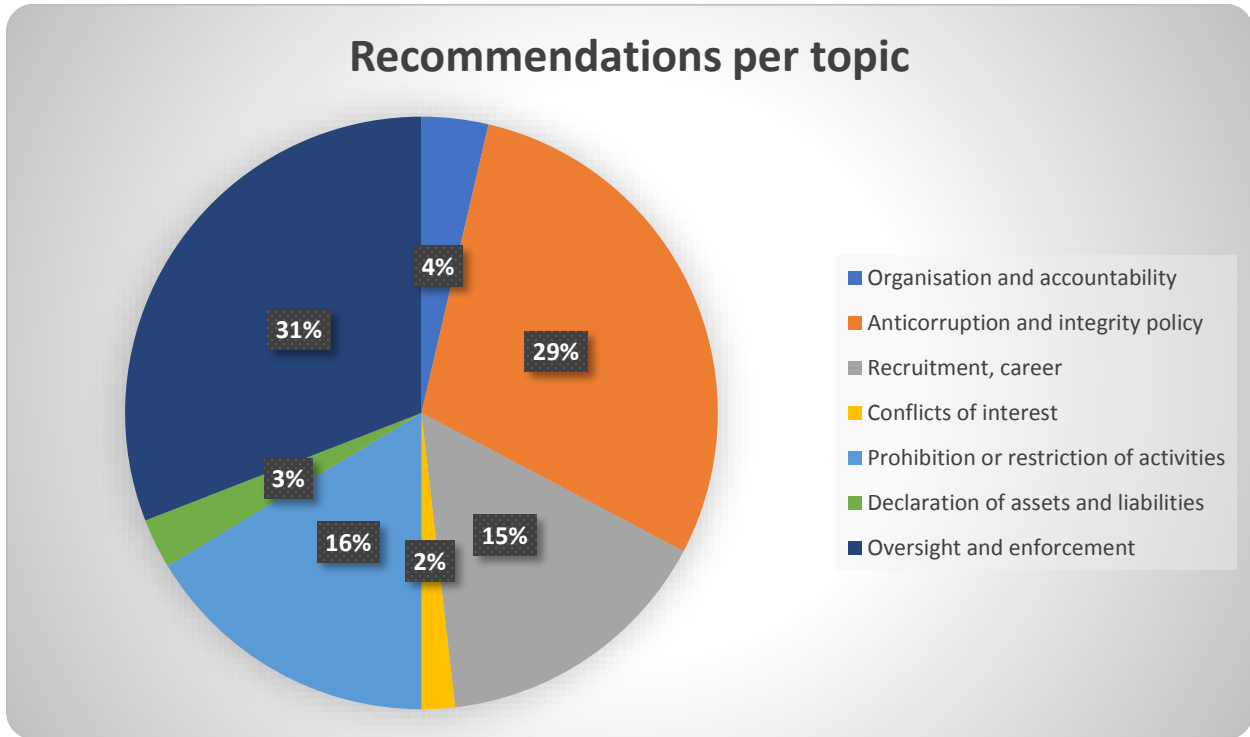
Public perception with regard to which authority is better equipped to deal with corruption also means that people believe in repressive measures as having a bigger effect on such crimes. However, prevention is key to making reforms long-lasting, sustainable and less costly.

In respect to law enforcement, GRECO's aim during this round was to evaluate effectiveness of the measures adopted by respective countries to prevent corruption within its police forces and promote integrity in themselves. To do so, it looked carefully at the following major topics, each of them consisting of very important tools and elements, analysing what is successfully pursued and which of them require more to be done (see Figure 6):

- Organisation and accountability
- Anticorruption and integrity policy
- Recruitment, career and conditions of service
- Conflicts of interest
- Prohibition or restriction of certain activities
- Declaration of assets, income, liabilities and interests
- Oversight and enforcement

¹⁶ Special Eurobarometer 470 on Corruption commissioned by the European Commission, October 2017.

Figure 6. Distribution of Recommendations issued to Law Enforcement per Topic



Anti-corruption and integrity policy

Although many countries reviewed had well-developed national anti-corruption strategies, codes of conduct and overall policy guidelines, some of the countries needed to have them clearly spelt out, brought into a single document and be more streamlined. This was seen as a good moment for carrying out “health checks” in their respective organisations and mainstreaming corruption tools. A few countries were asked to look carefully at the risks from which law enforcement might suffer, focusing on vulnerabilities and corruption-prone areas, and build their countermeasures in response to them. The majority of the countries assessed were asked to complement their codes of conduct with provisions on gifts, ad hoc conflict of interests and relations with third parties. GRECO also insisted that such documents should be followed by supervision and enforcement, in some cases asking them to introduce sanctions. No enforcement of a code of conduct is possible without it being well understood and internalised. Being aware of that, GRECO recommended to almost all the countries assessed to have regular training on corruption prevention, integrity and conflicts of interests, conducted by qualified trainers, for all police staff, particularly including their superiors. It also believed that such training such be practice -oriented, linked to their daily activities. To be better equipped to deal with ethical dilemmas at the police, it was often recommended to introduce a mechanism for providing confidential counselling, offered by trained persons of trust. GRECO also believed that all prevention tools undertaken by the police should be explained to the public, so that it is made aware of the integrity standards that the police are bound by and gain more trust and support.

Organisation and accountability

To be able to perform, adequate resources are necessary. In some instances, GRECO had to highlight to the authorities that they need to ensure appropriate and dignified pay for their police officers. It was also concerned in some instances that reforms of the police and their internal control structures were not always followed by allocating them the necessary resources and expertise to perform those new functions properly.

Recruitment, career and conditions of service

Like with many other professions, the power of the police lies in the people it selects and maintains. To be able to expect them to be fair, just and adhering to the highest standards of integrity, the country should, from the very beginning and throughout their career, make sure that the police as the entire hierarchical system is driven by the principles of transparent and merit-based recruitment, promotion and dismissal, offering an objective appeals procedure, having clear criteria for motivating staff and striving for gender balance. In a few instances, GRECO had to remind countries to build or enhance these principles, warning them that vacancies in the police as a rule should be advertised, rather than having candidates “hand-picked” by means of transfers from the civil service. It also believed that selection should be based on clear objective criteria as opposed to subjective preferences, that no-one should unduly influence the process and that the highest superiors should not be above this rule. In quite a few cases GRECO acknowledged that integrity checks and vetting of the police could take place not only during staff recruitments, but also regularly. In addition, it saw the benefit of having compliance with the rules of ethics form part of periodic performance reviews of police staff.

Conflicts of interest

Although dealt with extensively during the second evaluation round, this issue demanded special attention from GRECO with regard to the situation in the police. Fairness and impartiality are paramount for all those exercising a public function; they are particularly important for the police, given its powers and the certain degree of discretion it has in how to use these powers. Being a closed organization, the police needs to be proactive in dealing with its own conflicts of interests. GRECO recommended some countries to have a more streamlined approach, with clear rules and oversight of their implementation. It was particularly concerned that in some countries there were still links between police officers or their close persons with companies providing to the police supplies that were occasionally overpriced.

Prohibition or restriction of certain activities

Some countries are more stringent than others in prohibiting police officers from performing any other than their work functions. A few explicitly deny an opportunity for law enforcement officials to perform supervisory or control functions in relation to the contracts in which or their relatives may have a personal or financial interest. To eight countries out of eleven reviewed GRECO issued a recommendation in relation to secondary employment for the police. For some countries it coined a standard recommendation of “having a streamlined system for authorisation of secondary employment with effective follow-up”. In other instances, it advised them to study the issue carefully to be better placed in deciding if additional measures are needed to limit such participation and if so, establish clear criteria under which permissions to exercise them could be granted. Seven more countries were asked by GRECO to consider or, more strictly, introduce specific mechanisms for prevention and managing conflicts of interests after officers leave their office, including examination of the practice more thoroughly in order

to limit unrestricted permissions with regard to post-employment. The lack of rules on revolving doors in the public sector of some countries was already noted by GRECO in the Second Evaluation Round. In the case of the police, GRECO underlined the risks this poses to integrity (offers of jobs as rewards, use of communication channels with former police colleagues for the benefit of new employers, etc.). In this respect, GRECO referred to Recommendation No. R(2000)10 on codes of conduct for public officials, Article 26, stating that "the public official should not take improper advantage of his or her public office to obtain the opportunity of employment outside the public service".¹⁷ One country did not receive any recommendation with regard to post-employment in the police as no abuses were voiced by the evaluated country on-site although hypothetically they could occur.

Declaration of assets, income, liabilities and interests

With regard to whether or not a country should have declarations of assets, income, liability and interests for the police, GRECO took a more flexible approach. If countries already had them in place, it recommended them to introduce a robust and effective system of their verification. Similarly, on one occasion it advised to have an obligation for top managers to declare financial interests as this group was surprisingly excluded and was therefore not subject to oversight. A few other countries which did not require their police to have such declarations (unless for security clearance purposes) were not requested to build such systems. A similar pragmatic approach was taken by GRECO during the previous evaluation round, particularly in jurisdictions with little evidence of corruption and high levels of trust in the evaluated group in question. In several cases, GRECO reminded countries that financial reporting could be useful for officers working in corruption prone areas, e.g. making procurement decisions, and that an obligation of disclosure could be seen as an opportunity to help prevent situations that could ultimately lead to corruption.

Oversight and enforcement

Unsurprisingly, this topic attracted the biggest attention from GRECO and it addressed the lion's share of recommendations to the countries so far evaluated under it (See Figure 7). The reason for that is that oversight and enforcement are the most difficult parts in any action or operation. At the same time, this topic contains a long list of elements that merited a closer look from GRECO. A few countries were asked to develop stronger risk management systems, making sure that these risks are addressed and that oversight is in place. GRECO found it useful for the police to spot its vulnerabilities, be ready to tackle them, and be transparent and open to the public about the actions taken against the perpetrators in the police. Special attention was paid to preventing the risk of unauthorised access to registers and leaking of information. GRECO looked at how solutions of preventing risks in the police found in some countries could be useful to the others. One of them is the practice of multiple-eye, in particular, through more developed gender mainstreaming. Another example is the rotation of staff in areas exposed to risks of corruption.

GRECO was particularly concerned about the issue of the so-called 'blue wall of silence', i.e. the informal rule among police officers not to report their colleagues' misconduct or crimes. GRECO believes that transparency is an essential tool for upholding citizens' trust in the functioning of the Police Authority and is a guarantee against any public perception of self-interest or self-protection within the profession. With that in mind, a few countries were reminded of the obligation for their police to report not just corruption but also integrity related misconduct. The majority of the countries reviewed were given a

¹⁷ "Recommendation of the Committee of Ministers to Member States on Codes of Conduct for Public Officials, Adopted by the Committee of Ministers at its 106th Session. Strasbourg, 11 May 2000."

recommendation regarding clear rules and enforcement of protection of whistleblowers in the police, with a special focus on dedicated guidance and training for *all levels of hierarchy*. In that respect, special attention was paid to setting up or strengthening internal inquiry functions, making sure that they have the powers and resources to conduct independent investigations.

Conclusions

As a follow-up to its 4th Evaluation Round, which dealt with the issues of prevention of corruption in respect of members of parliament, judges and prosecutors, GRECO turned its attention during the 5th Round to the other two key groups exercising power: persons entrusted with top executive functions and law enforcement. Convinced that prevention of corruption relies heavily on instilling and maintaining a culture of integrity as well as a strong will and dedication to nurturing it, GRECO opened a dialogue with each of its members to see what is working and still missing for their citizens to feel safe and protected against the manifestation of corruption in those two domains.

Top executive officials are those who are the elite of society entrusted with power to lead the others and make decisions. They are ideally placed to demonstrate the political will to anti-corruption and should do so starting from themselves. The other group, which came under the scrutiny of GRECO this time, is law enforcement. They know the rules and should be bound by the highest standards of integrity themselves before compelling the others to abide by them. Both of these groups should demonstrate the courage and openness to face their own risks and vulnerabilities to become stronger.

Silence and denial are not the solution. Likewise, prevention of corruption is not about looking for potential problems, trying to fix what is unbroken. It is about building trustworthy structures, empowering people to act properly, raising their awareness, training and guiding them so that they become stronger, have a better immune system against malfunction and be trusted to be such.

Fully aware of that, GRECO looked at each of its members individually, carefully crafting recommendations that suit them best. At the same time, it looked at them following some universal principles that should be adhered to, in one way or another, by all of them.

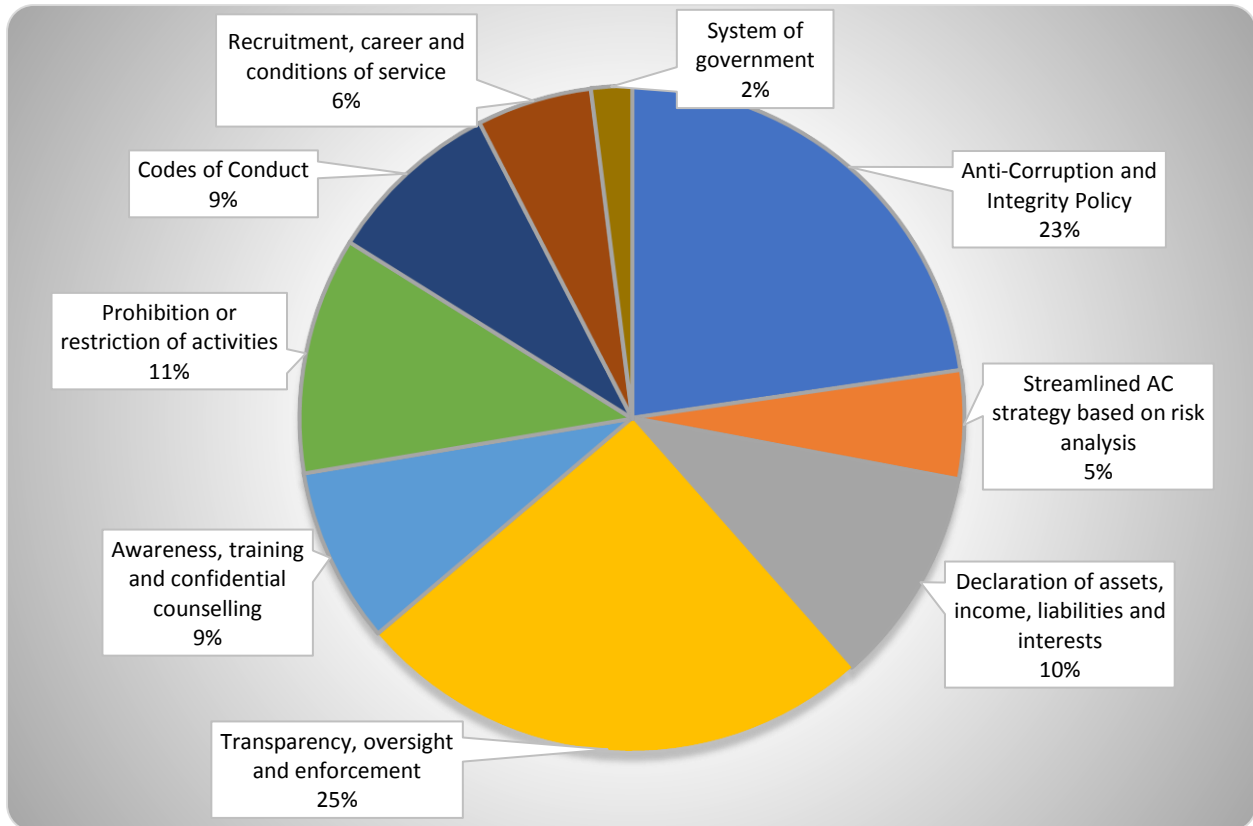
Horizontal findings

As seen from the evaluation reports so far examined and summarised in a chart below (see Figure 7), both groups should focus on building and streamlining their anti-corruption policies, that should be based on the risk analysis targeting their respective domains. Major attention should be paid to oversight and enforcement of those policies, higher awareness and accountability. To achieve that in central governments, the main emphasis is on transparency with regard to decision-making and regulation of interaction with third parties (lobbyists). Furthermore, they should improve their systems of declaration of assets, income and interests, making sure that they are not by-passed by transferring property to spouses and relatives or simply failing to disclose some interests because the requirements of what constitutes them are unclear. What concerns law enforcement, the best way of making it better accountable is to strengthen internal oversight and whistleblower protection mechanisms to enable unrestricted flow of information about vulnerabilities and misconduct inside of it.

Both professions are requested to take a closer look at the conflict of interest in relation to their side activities and migration from or to the private sector. In those instances where codes of conduct are to be developed, they should become living documents, practicable and enforceable as well as coupled with

compliance mechanisms. With that in mind, much attention is paid to raising awareness, training and guidance for the two groups, making sure that they are regular and well owned by the targeted beneficiaries.

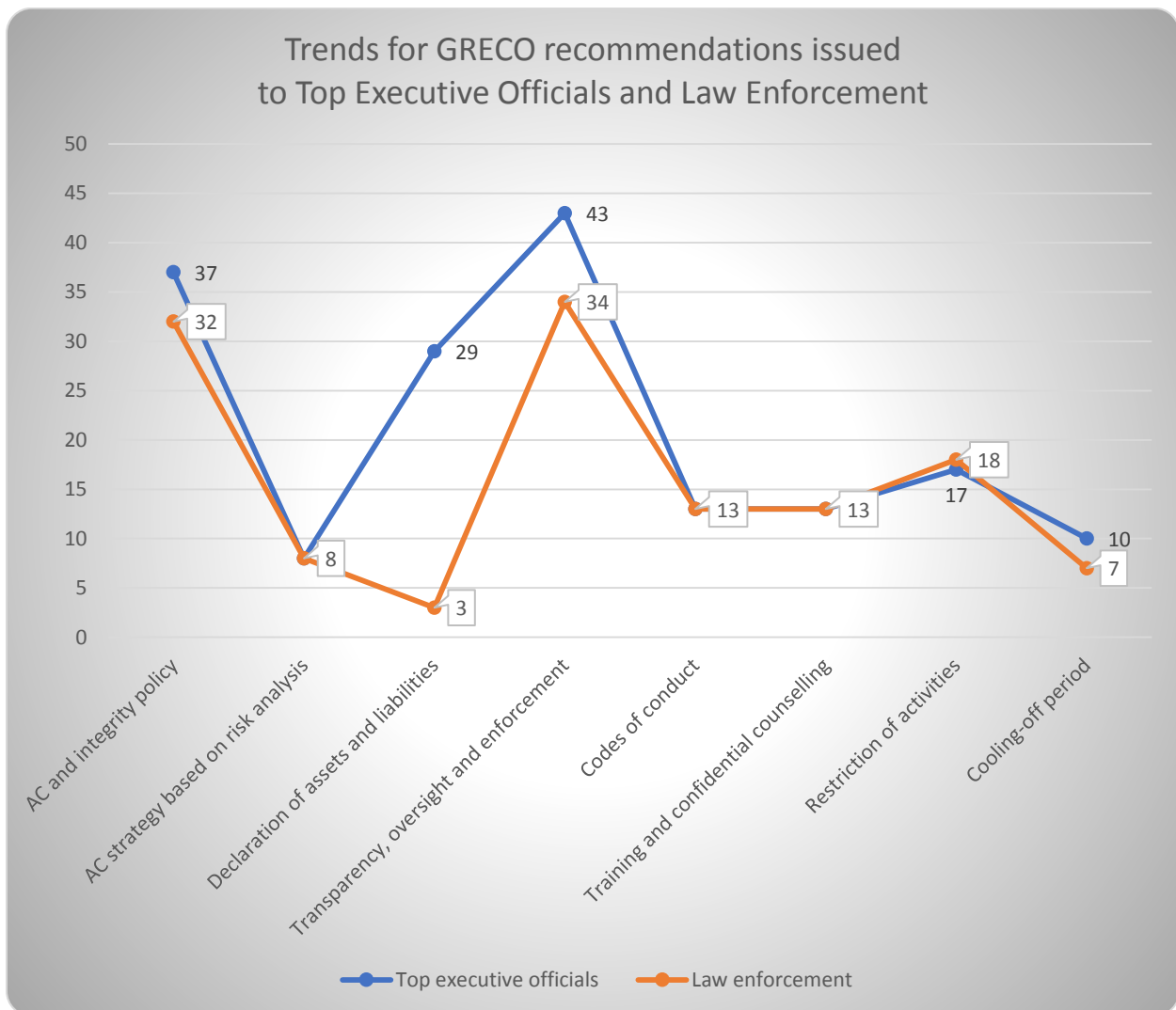
Figure 7. Recommendations per Topic issued to Top Executive Officials and Law Enforcement



Similar and diverging trends

The recommendations so far issued to the two groups in the countries evaluated have mostly similar trends with a few exceptions (see Figure 8 below). There are a lot of similarities in the number of recommendations issued to central governments and law enforcement under the category of anti-corruption and integrity policy (37 and 32 recommendations respectively), codes of conduct (13 recommendations per group), training and confidential counselling (13 recommendations each), restriction or prohibition of certain activities (17 and 18 respectively), post-employment limitations when moving from the public to the private sector (10 and 8 recommendations per group) and risk-based strategies (8 recommendations each). Interestingly enough, there is a yawning gap in the number of recommendations issued to top executive officials versus law enforcement regarding a better regulation (and wider scope) of the system of disclosure of assets, liabilities and interests (29 and 3) and a slight difference under a broader category of transparency, oversight and enforcement (43 and 34).

Figure 8. Similar and Diverging Trends of GRECO Recommendations issued to Two Groups



Key conclusions

- Many of the countries reviewed have well-built frameworks and systems with regard to anti-corruption and integrity policy. However, they need to be more streamlined and use a risk-based approach to target the areas more accurately and with a stronger impact.
- While building integrity frameworks and systems in place, countries should not exclude top executives from adhering to them and certainly not putting them above the law; likewise, they should not expect internal compliance mechanisms to address vulnerabilities without proper tools (e.g. special investigative techniques), resources (including adequate and dignified pay) and protection given to them.

- Some countries could have had better systems in place with regard to privileges and immunities from prosecution, revolving doors, protection of whistleblowers, gifts, codes of conduct and conflicts of interests if they fully complied with, and owned, the recommendations of GRECO given in previous evaluations rounds.

Final remarks

This study is an attempt to grasp the trends emerging after the first group of countries have undergone their 5th round evaluation by GRECO. Most of these countries are good, some are top performers as *perceived* by their own public, proud to find themselves above the global average. However, GRECO does not look at perceptions, but at the measures countries have actually taken and implemented to prevent corruption in the categories under review. Anti-corruption practitioners know that perceptions are volatile and can change once hidden facts become known and the public becomes more demanding of their governments to act - often with repressive measures, which are lengthy, costly and painful. They could be avoided if smarter solutions were sought to stop corruption before it arises and built to last.