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## **Guidelines for GRECO Evaluation Teams (GETs)<sup>1</sup>**

### **Part I: Evaluation**

### **Part II: Principles of conduct during the evaluation process**

When the GRECO Secretariat contacts a national expert to seek confirmation of his/her participation in an upcoming country evaluation<sup>2</sup> the present guidelines are sent to inform him/her more concretely about the tasks and the expected conduct of an evaluator. As indicated in Part II, by confirming their participation in a country evaluation, national experts agree to respect and follow these guidelines in their capacity as GRECO evaluators.

Endorsed by GRECO 81 (3-7 December 2018)

<sup>1</sup>This document takes into account the presentations and discussions held at the training workshop for 5<sup>th</sup> round evaluators (Strasbourg, 3-5 May 2017). It was revised to include principles of conduct, in response to Bureau 84 and 85 decisions.

<sup>2</sup>Ordinary or ad hoc procedures.

## PART I: EVALUATION

### A. EVALUATION PROCESS

#### a. Preparation for an on-site visit

1. A GRECO evaluation requires thorough preparation, in particular when examining the written material. Investment of time at this stage of the proceedings is crucial and allows efforts to be concentrated on what is essential during the on-site visit, which is short and very intensive. This preparation also facilitates the drafting of the Evaluation Report. To prepare yourself well before the on-site visit:
  - Read the reference texts for the current Evaluation Round, in particular the relevant Council of Europe legal instruments/standards;
  - Consult the Head of delegation of your country, as appropriate;
  - Examine the replies to the questionnaire provided by the country under evaluation and the draft descriptive part of the report (DDP) prepared by the Secretariat, legislation/regulations and other relevant texts that have been provided;
  - Do not hesitate to inform the Secretariat if additional material is necessary (do not contact the country to be evaluated directly!);
  - Mark issues that need to be clarified and formulate preliminary questions;
  - Read up on the political context of the country to be evaluated and, where possible, gather further information in addition to the information provided by the Secretariat;
  - Read through GRECO's previous Evaluation and Compliance Reports on the country to be evaluated, to get some background information and a general understanding of GRECO's proceedings;
2. You will be asked to submit your opinion on the draft programme of the visit: check that the programme is well-balanced and that it includes meetings with all relevant institutions/actors at the level most appropriate to reply to your questions;
3. You must respect throughout the process the confidential nature of the evaluation, documents and information provided (see also the principles of conduct in Part II);
4. The Secretariat will make all practical arrangements, travel tickets, accommodation, etc., in consultation with you.

#### b. On-site visit

5. At the start of the visit, a preparatory meeting will be organised (GRECO Evaluation Team/GET and Secretariat), during which you should be ready to discuss the situation of the country, the information provided in the replies to the questionnaire (and summarised in the DDP) and issues that need further clarification.
6. Please keep the following in mind during the meetings:
  - The GET is to function as a team; respect the collective approach of the GET;
  - Act with courtesy and tact, but do not hesitate to insist on obtaining the necessary information;
  - During the official meetings, members should avoid voicing personal opinions (in verbal and non-verbal communication) and express themselves in a neutral manner;
  - Participate actively in all discussions, focusing on questions gathering pertinent information, while respecting the time available for each meeting and making sure that there is enough time for all team members to ask questions;

- Questions should, generally, aim at complementing the DDP and replies to the questionnaire and cover both theory and practice;
  - Take notes during all meetings, including on topics which are not your primary responsibility;
  - Be flexible: people might not turn up for meetings or you may not immediately obtain the information. Be ready to adapt to necessary changes in a programme;
  - Pay attention, as necessary, to the sensitiveness of certain data and information; where necessary, seek guidance from the Secretariat on ways to use, or refer to such information.
7. Internal debriefing sessions will be organised by the Secretariat at the end of each working day and/or at the end of the visit, where you will have an opportunity to provide your preliminary opinion and suggestions.

#### **c. Follow-up to the on-site visit**

8. You are expected to provide your analysis of the situation (e.g. gaps in the policy/regulatory framework/implementation/etc.) and suggestions for recommendations in writing to the Secretariat and to the other GET members within two weeks after the visit: take care not to repeat unnecessarily information already available in the DDP, be concise, factual and provide solid reasoning;
9. On the basis of GET members' contributions, the Secretariat will prepare the so-called P1-version of the draft Evaluation Report;
10. You are invited to comment on the P1-version, (preferably) within 1 week from receiving it. Do not hesitate to raise any issues and to seek further information to clarify things;
11. The Secretariat will prepare an amended version of the draft report (P2-version), reflecting the evaluators' comments on the P1-version, which will be sent to the country in question together with further requests for information;
12. Following comments provided by the country on the P2-version, the Secretariat will make suggestions for possible further amendments to the draft report (P3-version).
13. You are invited to comment on the P3-version without delay, after which the draft report will be sent – for information - to the country in question and to GRECO in view of its adoption by the plenary.

#### **d. Adoption**

14. You are expected to actively participate in the discussion and adoption of the report during a GRECO plenary meeting (1-2 days) in Strasbourg (and to reply to any question which may be raised);
15. During the plenary you are expected to briefly introduce a part of the report and to be able to explain the GET's findings, conclusions and recommendations (if you prepare a short (one page) written text, please share it with the Secretariat to facilitate interpretation);
16. Your presence may also be requested in the margins of the plenary meeting (e.g. preliminary meetings and drafting meetings);

17. In all meetings, you are expected to uphold the opinion agreed between GET members.

## B. CONTENT OF THE 5<sup>th</sup> EVALUATION ROUND

### a. “Persons performing top executive functions” (PTEFs) and “law enforcement officers” (LEOs)

1. The 5<sup>th</sup> Evaluation Round shall focus on the above two categories of officials (see also the Introduction to the questionnaire):
  - “PTEFs” refers to members of government and similar persons who are political appointees and the Head of State under certain conditions. The questionnaire was designed to determine prior to the on-site visit which categories of persons in each member State would fall within the scope of the evaluation;
  - specifically as regards Heads of State, GRECO agreed (78<sup>th</sup> Plenary Meeting, December 2017) on the following definition for the 5<sup>th</sup> Round:
 

*A Head of State would be covered by the 5th evaluation round under “central governments (top executive functions)” when s/he 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.*
  - “LEOs” is to be understood as referring to those who carry out core law enforcement functions, such as the national police, and it may include border guard services. In case of multiple national agencies, the evaluation will be limited to two (or three) main services.
2. Depending on the constitutional and legal framework and practice, and while respecting the previous GRECO jurisprudence, the GET takes a reasoned position as to whether the function of Head of State is to be covered by the evaluation.

### b. The acquis from previous evaluation rounds

3. The 5<sup>th</sup> Round questionnaire is largely based on experience gathered in previous rounds (4<sup>th</sup> Round especially, but also the 1<sup>st</sup> Round as a whole and the 2<sup>nd</sup> Round as regards transparency and control of public administration). As regards integrity measures, it is largely inspired by the questionnaire used in Round 4.
4. GRECO’s practice in Round 4 shows that specific integrity requirements need to be in place concerning:
  - ethical standards and the general conduct expected (usually in the form of a code of conduct)
  - the management of conflicts of interest (including when they arise on an ad hoc basis);
  - how to deal with gifts and other benefits / offers;
  - relations with lobbyists and other third parties who seek to influence the work (especially for elected officials);

- the declaration of interests, income, assets and liabilities, with an appropriate level of detail and possibly addressing the situation of spouses / partners and dependent relatives (especially for holders of a political mandate);
  - mechanisms to supervise compliance with the above rules and examine the content of declarations;
  - appropriate sanctions in case of non-compliance;
  - advice (incl. confidential counselling), training and awareness.
5. Measures also need to be in place to prevent conflicts of interest and inappropriate influence in respect of the legislative process / policy-making: the 4<sup>th</sup> Round has confirmed as a “standard” the requirement for transparency and an adequate level of public consultation.
6. Specifically for civil servants / LEOs, evaluators need to ensure that
- safeguards are in place against interference with the work of law enforcement agencies and their staff (NB: the developments concerning independence and case management discussed in round 4 were specific to judges and prosecutors);
  - the concern for integrity is reflected in the recruitment and conditions of service: background checks and clean criminal record, career system based on merit and involving periodic appraisals, management quality, disciplinary procedures, transparency of their outcomes, etc.
7. GETs also need to ensure that there are no unresolved issues concerning:
- incompatibilities, prohibitions or restrictions of certain (accessory) activities;
  - immunities and special procedures relating to the categories of officials considered;
  - (mis)use of public resources, benefits and allowances, administrative facilities and personnel;
  - prohibitions on entering into business and other contracts with State authorities
  - (mis)use of confidential information;
  - revolving doors / post-employment restrictions; the focus of integrity policies also on the exit stage appears to be increasingly relevant in relation to mandate-holders becoming lobbyists, consultants etc.

### **c. Contextual factors**

8. The 5<sup>th</sup> Round questionnaire also seeks information on the contextual situation and the existence of factors which can lead to increased or decreased exposure of PTEFs and LEOs to risks of corruption:
- general information on anti-corruption and integrity policy;
  - general information on transparency and oversight of executive activities of central government;
  - general information on the organisation and accountability of law enforcement / police authorities;
  - information on actual cases.
9. Obviously, the purpose of Round 5 is not to do a full assessment of the entire executive function / governmental action / police work, but to ascertain whether the integrity mechanisms in place are, overall, commensurate with the level of risks and the context of the country.
10. Every country is different and the questionnaire cannot anticipate / address all the specificities of each country. Moreover, every evaluation round is also breaking new ground. Therefore, the GET

should not hesitate to address issues / propose recommendations not covered in previous country reports or evaluation rounds, if this is justified by the specific circumstances of the country evaluated. Where the GET considers it crucial to make specific recommendations to improve general checks and balances (as opposed to integrity-specific measures) these should be clearly and directly linked to the integrity framework that is the subject of the evaluation round.

11. Evaluators will also need to pay special attention to the overarching logic of integrity policies; for instance,
  - an employment regime for PTEFs and LEOs characterised by its permissiveness with regard to accessory activities will need to be counter-balanced with robust declaratory and other requirements for the management of conflicts of interest; certain top executive functions may call for specific arrangements to manage such possible conflicts, e.g. use of blind trusts during the mandate;
  - a country confronted with recurring controversies about nepotism and cronyism of members of government (which can be indicative of certain forms of corruption), or with a low level of citizens' trust in the police (this supposes that adequate measuring tools are in place), may call for supervisory and /or complaints mechanisms independent from the institution.

#### **d. Effectiveness of rules and supervisory mechanisms**

12. The effectiveness of mechanisms in place for the preservation of integrity will require careful consideration:
  - LEOs are among the essential categories of public officials (just as members of the judiciary and prosecution in round 4) for certain core functions of State and for anti-corruption policies to be properly enforced / implemented;
  - as regards PTEFs, the evaluators will sometimes have to reassess situations which have been addressed by earlier GRECO recommendations, especially as regards declaratory regimes for elected officials. Under these circumstances the GET may wish to consider whether the framework for elected officials remains appropriate for PTEFs and where regulatory improvements have been made as a result of previous GRECO recommendations, assess the impact of these improvements and the effectiveness of such mechanisms.
13. GETs will have to use the interviews and various pertinent sources of information (quantitative and qualitative data, activity reports, information from the media / NGOs/academics / unions etc.) to assess the effectiveness of preventive measures and of supervision / enforcement mechanisms. Evaluators should also check whether the results of supervision are documented and used for further policy-making.

#### **e. Drafting**

14. Although as mentioned under 3.3 above, every country is different and should be evaluated on its own merits, "case-law" plays an important role in GRECO's work. GETs need to become familiar with country reports previously adopted in the Fifth Round.
15. The language used in evaluation reports is diverse when referring to strengths and weaknesses. GETs can point to areas which would deserve further attention or consideration, or which may need clarification or further review, without addressing a formal recommendation.

16. GETs will often need to establish a list of priorities at the end of the on-site visit. All the weaknesses identified in a report do not need to translate into recommendations for improvement. Recommendations should be as concise and to-the-point as possible. Where good practices are identified, the report should mention them as well. A recommendation must be supported by appropriate reasoning (to assist the country in devising the appropriate reforms) and pass a quality test (e.g. is it clear enough, is it consistent with other recommendations etc.). As a rule, “consider” recommendations should be used only when more specific recommendations would not be appropriate<sup>3</sup>.
17. Where improvements are desirable as regards effectiveness (for instance of a declaratory or supervisory mechanism), it may be advisable for the recommendation concerned to refer to elements which would enable GRECO to assess the improvements in the compliance procedure, for instance, by asking of the country “that the resulting improvements are adequately documented”.

## PART II: PRINCIPLES OF CONDUCT DURING THE EVALUATION PROCESS

### a. Professionalism and general values

1. Throughout the evaluation process, the GET<sup>4</sup> will represent the Council of Europe and GRECO and it is expected to **demonstrate the utmost professionalism and credibility**. Examples of improper conduct which must be avoided include disrespectful behaviour towards the host country and the GET’s interlocutors, indifference and distraction during interviews (e.g. not taking notes, leaving the room, doing other business via electronic devices, ignoring discussions, etc.), not showing a clear commitment to the fight against corruption and to the international standards during interviews etc.
2. Members of the GET are expected to use their **experience and expertise** during discussion of the subject matters under evaluation, to analyse the situation and to be able to draft in one of the official languages (English or French). At the same time, the evaluation of a given country is teamwork and the GET members are to work in a collegial manner.
3. Evaluators should also inform the Secretariat of **personal circumstances that need to be taken into account** for their participation (e.g. mobility problems, disabilities).
4. In addition, the Council of Europe upholds certain **fundamental values and principles** such as gender equality, non-discrimination, prohibition of sexual and other forms of harassment, prohibition of ill-treatment of human beings. These should be adhered to at all times by GET members during discussions. It is recalled that national experts and the members of the Secretariat themselves enjoy protection against any form of harassment<sup>5</sup>.

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<sup>3</sup> A recommendation to “consider making” certain changes does not impose an obligation of result but GRECO examines its implementation as follows: a) have appropriate consultations taken place? b) were these pertinent (and not related to something else)? c) was the final decision to proceed or not with reforms taken at the appropriate (political) level? d) is the consultation process documented and publicly available?

<sup>4</sup> Council of Europe staff are under the authority of the Secretary General and are bound by the Staff Regulations and the relevant Instructions of the Secretary General.

<sup>5</sup> Under Rule No. 1292 on the protection of human dignity at the Council of Europe, “Everyone working at the Council of Europe (...) has the right to effective protection by application of the provisions of this Rule against sexual and psychological harassment, irrespective of the person perpetrating such conduct. The provisions of this Rule shall apply to all members of the Council of Europe Secretariat (...) and to persons (...) who participate in the Organisation’s activities, wherever they may be held.”

### **b. Impartiality, objectivity, neutrality**

5. GET members should **act in an impartial manner, and be seen to be doing so** on-site, during official meetings as well as in the margins of the meetings.
6. GET members should assess the information and facts presented to them in the context of an evaluation **objectively, without bias or prejudice, or considerations of a political nature**. GET members participate in the evaluations in a personal capacity and should not accept any **external instruction** (for instance from their employing institution, government or Head of delegation) and should not be influenced by considerations which are unrelated to the evaluation (e.g., belonging to the same professional category as the one under evaluation). Attempts to influence the work of the GET, including in the form of pressure and intimidation should be reported to the Secretariat.
7. As a general rule, **communication with the country evaluated** takes place through the Secretariat and parallel bilateral contacts with representatives of the country concerned should be avoided unless the GET has agreed otherwise.

### **c. Conflicts of interest and incompatibilities**

8. When confirming his/her participation, **the expert should disclose any potential conflict of interest<sup>6</sup> or incompatibility<sup>7</sup>** that may hamper, or be seen as hampering his/her role as an evaluator for the country concerned. This requirement applies also at any later stage of the evaluation process should any change in situation occur, for instance if the expert is offered a consultancy contract by, or in relation to the country concerned.
9. The **Secretariat will advise** as necessary on these matters, including as to whether it is preferable for the evaluator to withdraw or it is enough to inform the other team members as well as GRECO when it discusses the draft report for adoption. Decisions on the **possible replacement** of a GET member are taken by the President of GRECO.

### **d. Personal benefits and gifts**

10. **Participation in an evaluation should not be used to pursue personal benefits.** As a rule, all team members are expected to attend all meetings organised during the visit (also additional meetings) and they will, as a main rule, be accommodated in the same venue so as to facilitate logistical arrangements and interaction within the team. Private matters (meeting friends or relatives, tourism and shopping) should not interfere with the programme and the evaluator's tasks.

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<sup>6</sup> This is to be understood broadly and as referring to any material and other interest of a personal or private nature (including those of spouses / partners and close relatives of the expert), which they may have in relation to the country to be evaluated. Since this is not limited to purely material interests, a conflict may also arise, for instance, from membership in an organisation or club pursuing the objective of developing political / commercial and other relations with the country under evaluation.

<sup>7</sup> For instance, an expert may have doubts about the appropriateness of his/her participation if s/he is involved, due to his/her professional and other activities, in technical cooperation projects, the negotiation of inter-agency agreements with the country under evaluation etc.

11. Although it is normal to exchange business cards and contact details, members should **refrain from promoting actively certain professional, academic and other personal activities**. Seeking consultancy opportunities – whether related or un-related to the subjects discussed during the on-site visit – is incompatible with the evaluation work.
12. As a general rule, **gifts or other forms of advantages shall not be accepted in relation to GRECO activities**. Work-related, minor gifts or conventional hospitality (e.g. attendance of an official event) of a courtesy nature may be accepted. The Secretariat will advise members if such situations occur.

#### **e. Confidentiality**

13. **Confidentiality must be preserved throughout the process**, before, during and after the on-site visit. This applies to information submitted via the Secretariat, information obtained on-site, and the various versions of the draft report. The content of a report adopted by GRECO can only be referred to in public, once it has become public.
14. During on-site discussions with governmental/public bodies and representatives of media/civil society/NGOs/academia, the team members should bear in mind the confidential status of certain information and any possible **repercussions when comparing contrasting views**.
15. GET members should **not share information outside the “GET circle”**. . If a media interview is organised outside working meetings, the Secretariat will respond as necessary to questions concerning general aspects of the visit and GRECO’s work.

#### **f. General precautions**

16. The Secretariat shall inform the evaluators about **specific precautions** that may need to be taken in relation to the evaluation and on-site visit. These shall be discussed within the GET at the beginning of the on-site visit.
17. GET members should **remain alert at all times during the process** – including on the margins of official work during the on-site visit – about possible reputational and other consequences of intentional and unintentional actions for themselves and for the image of GRECO / the Council of Europe. In particular, alertness is called for in respect of activities that are or may be illegal, risks of political instrumentalisation, and dubious solicitations and offers in the country visited.

#### **g. Adherence to the principles of conduct**

18. By confirming their participation in a country evaluation, national experts are deemed to agree with, respect and comply with these guidelines in their capacity as GRECO evaluators. Guidance (including on a confidential basis) may be sought at any time from the Secretariat and particular matters, including inadequate conduct, can be discussed within the evaluation team as necessary.
19. The President of GRECO, the Head of Delegation, the authorities of the country concerned and/or the Executive Secretary shall be informed of any conduct in breach of these guidelines by a national expert during the evaluation process and, as the case may be, of any measure (e.g., warning, exclusion from an evaluation or the list of evaluators) taken as a result thereof by GRECO or its President, in consultation with the Head of delegation of the country which appointed the evaluator.

20. 3. It is also recalled that in accordance with **the Council of Europe's own anti-corruption policy** (Rule 1327) the organisation is "committed to the proper use of its funds and resources, the prevention of fraud and corruption and the protection of its reputation and interests." Members of the Secretariat have a duty to report any reasonable suspicion of fraud or corruption. The provisions of the rule apply also to officials and persons who participate in the Council of Europe's activities (wherever they may be held) and who are encouraged to report a suspicion directly to the Secretary General of the Council of Europe. Every reporting person has the right to effective protection against retaliatory action.