

Intervention by Marin **Mrčela**, President of GRECO, on the occasion of the Session of the Venice Commission (Venice, 9 December 2017)

Madame Chair, Mr President, Colleagues, Ladies and Gentlemen,

Thank you for inviting me to this exchange of views. It is particularly fitting that I address you today on the occasion of International Anti-Corruption Day, at the end of a very busy GRECO plenary meeting week in Strasbourg where we adopted our first, 5<sup>th</sup> round evaluation reports.

The Venice Commission and GRECO are two of the most prestigious bodies of the Council of Europe. Your opinions and our evaluations are followed closely by politicians, lawyers and policy makers in Europe and beyond. They are reference documents for domestic reforms and are often central to domestic and international debates. Our respective work is at times criticised, which is healthy in any democratic society. In any case, we have a responsibility - an obligation, I would say – to provide a high standard of quality and legal rigour.

We also have a responsibility to talk to each other so that, to the extent possible, we are aware of and build upon each other's work. This is why I am very happy to be here today. Let me take this occasion to invite you, Mr Buquicchio, to one of our forthcoming meetings in 2018 to do the same with GRECO.

Ladies and Gentlemen,

There are lots of similarities between GRECO and the Venice commission. We are both Enlarged Agreements open to and including non-member states of the Council of Europe. We both touch upon topics that reach the very core of the functioning of the State, such as independent judiciaries, democratically elected parliaments, etc.

We both provide advice to member states, but we do so differently. While your work primarily takes the form of "legal opinions", our work in GRECO is based on country-by-country evaluations covering both legislation and practice with in depth analysis.

Our job in GRECO is to ensure compliance with and effective implementation of the Council of Europe anti-corruption standards by our 49 – soon 50 – member states. We do so through a process of mutual evaluation and peer pressure, and we apply a very thorough compliance process. GRECO is THE Council of Europe, non-political, anti-corruption body. It is in GRECO that all the wealth of knowledge and expertise on anti-corruption issues is to be found. In GRECO we

act as a “trusted adviser” to all our member States, and like a true friend, we don’t hesitate to speak openly and frankly when we have to. And we can do so forcefully too, if needed.

There is a lot of complementarity in our work. In particular, one of the topics of our 3<sup>rd</sup> Evaluation Round – political party funding – and all of the topics of our 4<sup>th</sup> Evaluation Round - prevention of corruption in respect of MPs, judges and prosecutors – have been of interest to the Venice Commission as well.

In 2017 alone, we have constantly built on each other’s work. GRECO’s Report on Turkey’s compliance in the 4<sup>th</sup> Evaluation Round, unfortunately not public yet, contains extensive references to the Venice Commission’s recent opinion on that country. Similarly, your Opinion on Ukraine’s draft legislation on the Anti-Corruption Court or the work you are doing this week on Moldova’s political party funding legislation, contain extensive references to GRECO’s evaluations on those countries.

These are excellent practices that we need to continue because they send a very strong message to our member states and reinforce our respective positions on the issues at stake.

Madame Chair,

GRECO has now completed its 4<sup>th</sup> Evaluation Round concerning the prevention of corruption in respect of MPs, judges and prosecutors. The Secretariat has put at your disposal copies of our Study summarising the main trends and conclusions from this round – it is also available on GRECO’s website. It would be over-ambitious for me to try to summarise the principal findings today, but allow me to highlight two main points which came through very strongly across our 4<sup>th</sup> Round Evaluations:

First, there is a tendency in States to underestimate the power of prevention, too often favouring repressive measures. While law enforcement actions against corruption are important, preventing corruption is key, to make sure it doesn’t happen in the first place. All preventive provisions relating to conflicts of interest, relations with third parties and lobbyists, post-employment restrictions, rules relating to gifts and other benefits, incompatibilities and accessory activities, asset declarations, are essential and must be components of any anti-corruption framework.

Allowing a judge to be at the same time an MP or a local elected official; a judge to receive gifts exceeding several thousand Euros without making any form of declaration; an MP to freely recruit his or her spouse or handle public resources without any accountability, does not help

to prevent corruption. Similarly, GRECO has been clear that there should be no undue political influence on judges and prosecutors and, to this end, the executive branch should not be involved in the recruitment, appointment and promotion of judges. It should also not have decisive role in disciplinary proceedings. By the way, these are all examples of real situations we found in our member states...☺

My second point is about implementation. This is one of the biggest “takeaways” from our 4<sup>th</sup> Round. While countries have started or completed legal reforms, they are still too slow in implementing them. What is worse is that in a few cases, we are seeing reversals of previously adopted reforms.

These are worrying trends that GRECO will continue to follow very closely and act upon as necessary through our new Rule which allows us to re-assess a country when a particularly serious situation arises. It is with this in mind that GRECO decided yesterday to make use for the first time of its new powers to carry out an ad hoc, urgent evaluation of two member states in exceptional circumstances – the countries in question are Romania and Poland. In respect of Romania, as you probably know, the Parliament of Romania has recently registered three legislative proposals concerning the judiciary, for adoption through emergency procedure. Serious concerns have been expressed in Romania and abroad that these proposals could put at risk the effectiveness of the fight against corruption and undermine the independence of the judiciary in Romania. GRECO has therefore decided to carry out an ad hoc, urgent evaluation of these draft laws which will be adopted by GRECO in March 2018.

Likewise, in respect of Poland, a country you have on your agenda this week too, similar concerns have been expressed on four draft laws, in particular in relation to the reorganisation of the Supreme Court and of the National Council of the Judiciary. As in the case of Romania, GRECO has therefore decided to carry out an ad hoc, urgent evaluation of these draft laws which will be adopted by GRECO in March 2018.

Madame Chair,

Let me conclude. Our 5<sup>th</sup> Evaluation Round has just started. It focuses on the prevention of corruption in respect of central governments, including the top executive functions of the State, and law enforcement. Earlier this week, we adopted the first two evaluation reports in the 5<sup>th</sup> Round, on Slovenia and the UK. Directing our attention to central government constitutes a logical extension to the 4<sup>th</sup> Round with its implications for shaping citizens' attitudes towards their political institutions and democracy in general. Furthermore, while law enforcement authorities form a cornerstone of the fight against corruption, and their integrity is therefore fundamental, experience shows that the specific risk factors involved in the work of law enforcement agencies warrant careful consideration.

We will follow and continue to make use of the work of the Venice Commission. I encourage you to continue to follow GRECO's new evaluation round, as I am sure there will be further opportunities for synergies and cross-fertilisation.

Thank you, Madame Chair, for this opportunity to address your Commission today. I remain at your disposal to answer any questions.