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**CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE PROTECTION
OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING
OF PERSONAL DATA**

CONVENTION 108

Information note on the procedures of various monitoring mechanisms

Directorate General of Human Rights and Rule of Law

1. The present document has been prepared by the Secretariat to inform the 52nd meeting of the Bureau of the Committee of Convention 108 on procedures established by different Council of Europe's committees, notably by the Group of States against Corruption (GRECO), by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONYVAL), by the Group of Experts on Action against Trafficking in Human Beings (GRETA) and by the Committee of Social Rights. This comparative information aims at supporting the discussion regarding the process and rationale of the evaluation and follow-up mechanism (see documents T-PD(2018)20rev7 and T-PD(2018)2021rev7) to be set up under Convention 108+ in line with Article 4, paragraph 3 and Article 23, litterae e, f and h of Convention 108+.
2. The comparative table hereafter describes the legal basis, the procedure, the outcome/*ex post* procedures, where applicable complaints mechanism as well as the transparency rules of the different monitoring mechanisms chosen. It also summarises rules on the access to documents as established by the Committee of Ministers. (Cf. CM/Del/Dec(1998)641/1.3 and CM/Del/Dec(2000)7351.5a)
3. The document is designed to be a source of inspiration for the Bureau of the Committee of Convention 108 when discussing issues related to the follow-up and evaluation procedures to be implemented by the Committee of Convention 108+ in order to present tailor made procedures to:
 - a. Evaluate a Candidate for accession in terms of the guaranteed level of protection and its compliance with Convention 108+, with a view to adopting an opinion to be presented to the Committee of Ministers;
 - b. Assess, at the request of a State or an international organisation, the compliance of their level of protection with the Convention;
 - c. Review (periodically and on an ad-hoc basis) the implementation of the Convention by a Party to the Convention.
4. The comparative table reflects the existence of several options for the structuring of different preparatory and follow-up reports (evaluation report, progress report, etc.), the use of a questionnaire during an evaluation, the composition of evaluation teams, the preparation of country visits, the structure of the outcome of an evaluation, the procedure for their adoption, including the possibility to comment, amend and publish, the *ex post* procedures and the assessment of progress and details on compliance and non-compliance procedures.

	Greco	Moneyval	Greta	Social Charter
Statute	Article 10 – 16 of the Statute of Greco Title II of the Rules of Procedure	FATF Core Recommendations (2012) Monitoring rounds (currently the 4 th)	Paragraph 1 of Article 36 of the Convention (CETS No. 197) Monitoring rounds – 4 years (unless GRETA decides otherwise by unanimity) GRETA selects the specific provisions on which each evaluation round shall be based (having the first one on the overview of implementation of the Convention by each Party)	Art 21-29 of the European Social Charter
Procedure	<ol style="list-style-type: none"> EVALUATION ROUNDS determined by Greco with the selection of provisions to be evaluated QUESTIONNAIRE prepared by Greco, replies to be sent to the Secretariat REPLY by the Party concerned (if country visit is scheduled not later than 3 month before it) LIST of EXPERTS a Party can designate 5 experts on the top of its representative to the Greco EVALUATION TEAM is set upon the proposal of the Bureau (at least 3 experts from different Parties from 	<ol style="list-style-type: none"> EVALUATION REPORT by monitoring rounds PROGRESS REPORT by each country (1 year after the Evaluation Report) SECRETARIAT ANALYSIS (desk-based, against FATF Rec) Plenary discussion with one Rapporteur State 	<ol style="list-style-type: none"> QUESTIONNAIRE (to be sent not earlier than 1 and not later than 2 years from the entry into force of the Convention for the Party concerned) it shall be public, addressed through a contact person, answers are to be sent within the deadline set by GRETA to the Secretariat, GRETA publishes the answers (unless requested by the Party) ADDITIONAL INFORMATION by writing or during country visit URGENT REQUEST FOR INFORMATION if it 	<ol style="list-style-type: none"> Biannual Report to the SG (in a form determined by the CM) Secretariat comments Committee of experts (up to 7 members appointed by the CM form a list of independent experts for 6 years + ILO can appoint a member with a consultative capacity) Sub-Committee of the Governmental Social Committee Prepare a Report on the basis of the reports of the Parties + Conclusions of the Committee of Experts and send it to the CM. Is composed by 1 representative/Party + representatives of not more

	<p>the list above + Secretariat + additional, when required scientific experts), the list is to be sent to the Party concerned and if disagreement Bureau shall propose an alternative one</p> <p>6. PREPARATION of a COUNTRY VISIT – date is to be determined by the Secretariat in consultation with the Party concerned (but not earlier the 3 month after the reception of replies to the Questionnaire), the Party concerned is to prepare a draft program to which the team shall agree, not longer than 4 days (in principle)</p> <p>7. PREPARATORY MEETING – Party concerned + evaluation team allows preliminary exchange of views</p> <p>8. FINAL ON-SITE MEETING discuss all outstanding issues</p> <p>9. COUNTRY VISIT</p> <p>10. CONCLUDING MEETING between experts and the Secretariat to develop a common assessment, summary is to be prepared by the Secretariat</p>		<p>receives reliable information on problems which require immediate attention, it may designate a rapporteur and/or carry out a country visit, it publishes its findings (together with comments of the Party concerned), if not is session Bureau decides and President reports at the next Plenary</p> <p>4. INFORMATION FROM NGOs the questionnaire may be sent to NGOs and other relevant organisations</p> <p>5. COUNTRY VISITS on GRETA's decision appointment of a delegation (rapporteur and 1 or more other GRETA members + Secretariat, interpreters, specialists if required), the Party concerned shall be informed and the visit is to be organised in cooperation with the contact person (or directly with NGO's and other non-governmental actors), reports back to GRETA</p> <p>6. HEARINGS and other means by the decision of GRETA</p>	<p>than 2 international employers and 2 of international trade union organisations and representatives of 2 relevant NGOs)</p> <p>5. Consultative Assembly SG transmits the conclusions of the Committee of Experts, the CA can communicate its views on these to the CM</p> <p>6. Committee of Ministers By majority of 2/3 of the members entitled to sit on the CM can make to each party any necessary recommendations</p>
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Outcome/ <i>ex post</i> / Complaint mechanis m	<p>1. MUTUAL EVALUATION REPORT</p> <p>a. Descriptive Part based on answers to the questionnaire (can be prepared by the Secretariat and be sent to the expert 1 month before the country visit)</p> <p>b. Analytical Part containing observations and recommendations and their motivation</p> <p>Experts are required to send written contribution (mainly on the analytical part within 14 days from the receipt of the Descriptive Part or 14 days after the country visit)</p> <p>→ Secretariat draft report within 14 days from the receipt of all contributions</p> <p>→ Expert comments on the Secretariat draft are to be sent within 14 days</p> <p>→ Secretariat revised draft report is sent to experts (if difficulties Secretariat organises coordination meeting) and to the Party concerned</p> <p>→</p>	<p>1. If satisfied: ADOPTION of the Progress Report and the Analysis + PUBLICATION + Biennial update (not subject to Secretariat analysis, but subject to Rapporteur state's considerations and peer review by Moneyval delegations)</p> <p>2. If not:</p> <p>a. REGULAR FOLLOW UP</p> <p>i. In case of <u>partially compliant</u> or <u>non-compliant</u> rating: Report back to the Plenary within 2 years or by request of the Plenary</p> <p>ii. Removal within 3 years of the adoption of the 4th round of MER from Regular Follow up, if it demonstrates that it ensures the compliance at an essentially equivalent to compliant or largely compliant level</p> <p>b. ENHANCED FOLLOW UP</p> <p>i. In case of <u>serious in</u> <u>compliance</u> with the standards or if <u>it cannot exit</u> <u>regular follow-up within 5</u> <u>years</u></p>	<p>1. REPORT prepared by rapporteurs (15 experts, high competitive selection)</p> <p>a. Descriptive Part (based on the answers to the questionnaire and other information)</p> <p>b. Analytical Part (a reasoned observation on the Party's implementation)</p> <p>c. Conclusions (suggestions, proposals)</p> <p>2. PLENARY examines, discusses and APPROVES the report and SENDS it to the Party concerned for comments</p> <p>3. ADOPTION of the REPORT by 2/3 of the votes cast taking into account the comments sent within the deadline by the concerned Party</p> <p>4. The Adopted report and the conclusions are transmitted to the Party for any FINAL COMMENT within 1 month</p> <p>5. PUBLICATION of GRETA's Report, Conclusions and Final Comments of the Party concerned</p>	<p>Collective complaint mechanism (ETS No. 158)</p> <p>Can submit a complaint:</p> <ul style="list-style-type: none"> • international organisations of employers trade unions • international NGOs (which have consultative status as per the decision of the Governmental Committee) • national organisations of employers trade unions (for matters within their own jurisdiction) <p>1. SG receives the COMPLAINT, notify the Party and send it to the Committee of Experts</p> <p>2. Committee of Experts is examining the case and prepare a REPORT</p> <p>a. Asking for more explanation</p> <p>b. Written contributions</p> <p>c. Organising hearings</p> <p>d. Etc.</p> <p>3. Report is to be sent to the CM, Parliamentary Assembly and to interested parties</p> <p>4. CM adopts by majority of those voting a RESOLUTION and if there is non-compliance with the charter (as per the report of the Committee of Experts)</p>
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	<p>Written comments from the Party concerned within 21 days (extendable by the Secretariat) is to be sent to the experts who determine which one is acceptable, if opinions differ, Secretariat is negotiating a compromise → Secretariat final draft report is to be sent to all representatives sitting on Greco at least 2 weeks before the Plenary → Secretariat revised final draft report is to be sent to the Plenary if only minor drafting issues need to be solved (Secretariat organises a pre-plenary meeting between experts and the representatives of the Party concerned)</p> <p>2. EXAMINATION, DISCUSSION, ADOPTION</p> <p>a. Examination within 6 month from the end of the country visit (shall start with an oral presentation by one expert and the response of the representative of the Party concerned)</p> <p>b. Discussion upon the proposal of the Secretariat the Bureau may invite 2 intervenors</p>	<p>3. In any case COMPLIANCE ENHANCING PROCEDURES can be used</p> <ul style="list-style-type: none"> a. Letter by the SG b. High-level mission to the non-compliant state c. Formal public statement inviting international community to take into account the risks d. Referring the matter for the FATF ICRG 	<p>6. COMMUNICATION STRATEGY to further the impact of GRETA's Report, Conclusions</p> <p>URGENT SITUATION (new) – ex: huge arrival of asylum seekers. Not tight to cycles and rounds. Two visit have been already carried out: Italy, Hungary</p>	<p>by 2/3 of those voting adopts a RECOMMENDATION addressed to the Party (a Party can request the CM to vote by 2/3 if the expert report raises new issues to consult the Governmental Committee)</p> <p>5. Information on the FOLLOW UP measures which are to GIVE EFFECT to the CM's recommendations shall be given in the next report to be submitted to the SG (every 2 years)</p> <p>175 cases since it has been created, 53 currently pending</p>
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	<p>to pose questions during the discussion (questions are to be sent by writing prior the meeting, intervenors shall not come from the same country than experts), representatives, experts can put oral questions</p> <p>c. ADOPTION is due at the close of the discussion with recommendations in the report for the Party concerned</p> <p>3. COMPLIANCE WITH THE RECOMMENDATIONS SITUATION REPORT which the Greco examines and decides whether or not recommendations have been complied with</p> <p>4. COMPLIANCE PROCEDURE</p> <p>a. Compliance Report is to be prepared by two rapporteurs selected by the Greco upon the proposal of the Bureau, Secretariat shall assist the rapporteurs</p> <p>b. Written comments by the concerned Party</p>			
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	<p>within 14 days from the receipt of the Compliance Report</p> <p>c. Revised Compliance Report, Secretariat can assist the rapporteurs and is to be sent to all representatives at least 14 days before the Plenary</p> <p>d. Plenary discusses the Compliance Report not later than 6 month after the receipt of the Situation Report (if not possible, Secretariat informs of the reasons) with the Head of delegation of the Party concerned present at the meeting (Greco may postpone the adoption upon founded request)</p> <p>e. Adoption of the Compliance Report shall contain an overall conclusion on the implementation of the recommendations an in addition it shall indicate if recommendations are</p> <ul style="list-style-type: none"> i. Implemented satisfactorily ii. Partly implemented 			
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	<p>iii. Not implemented</p> <p>f. Second Situation Report by the Party concerned shall be presented if ii) or iii) are concluded</p> <p>g. Second Compliance Report prepared by the rapporteurs based on the Second Situation Report</p> <p>h. Plenary decides whether to adopt the Report or to apply Rule 32</p> <p>5. NON-COMPLIANCE PROCEDURE (Rule 32) guided by</p> <ul style="list-style-type: none"> a. Equality of treatment b. Graduated approach c. Approval by the Plenary of the steps to be taken, allowing flexibility <p>➔ Non-compliant Party's Head of delegation is requested to provide report or regular reports on progress</p> <p>➔ The president of Greco sends a letter to the Head of Delegation, being the president of the Statutory Committee in copy</p> <p>➔ Greco invites the President of the Statutory Committee</p>			
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	<p>to send a letter to the Permanent representation of the Party concerned</p> <ul style="list-style-type: none"> ➔ Greco invites the SG to send a letter to the Minister of Foreign Affairs ➔ Arranging high level mission (including the President and Secretary of Greco, Director of DLAPIL and selected Heads of delegations) ➔ Bringing the matter before the Statutory Committee <p>AD HOC Monitoring (new): In topical issues, which needs more attention in a specific country in a specific point of time</p>			
Transparency	<p>Evaluation report shall be confidential. (Statute of GRECO Articles 15(6))</p> <p>Compliance report shall be confidential. (Rules of Procedure 34)</p> <p>Exception:</p> <p>GRECO may adopt a summary of each evaluation or RC-report (compliance report) and make it public (Rules of Procedure 34(2))</p>	<p>All reports adopted by MONEYVAL shall be public. (Article 5(13) of MONEYVAL's Statute and Rule 32 of Procedure for the 5th Round of Mutual Evaluation)</p> <p>Details:</p> <p>The public website shall include up to date information on the status of the country/territory in the evaluation process, and if applicable, on the next steps. (Article 5(13) of MONEYVAL's Statute and Rule 32 of Procedure for the 5th Round of Mutual Evaluation)</p>	<p>GRETA's report and conclusions, together with eventual comments by the party concerned, shall be made public, at the expiry of the time-limit of one month to make comments, and sent to the Committee of the Parties. (Rule 15 of Procedure of GRETA)</p> <p>Details:</p> <p>An effective communication strategy shall be prepared to further the impact of GRETA's reports and conclusions.</p>	<p>For the Procedure For Examination Of Reports</p> <p>Following adoption of the conclusions, the Committee shall instruct the Executive Secretary to transmit them to the States and to make them public. (Rules of Procedure 22(4))</p>

	GRECO may make the whole evaluation report and/or a RC-report public, with the comments of the member concerned, whenever requested to do so by that member.			
Access	<p>Rules of the Committee of Ministers governing access to documents (Classification of information: Cf. CM/Del/Dec(1998)641/1.3 and CM/Del/Dec(2000)7351.5a)</p> <ol style="list-style-type: none"> 1. Documents not subject to any particular classification are public. 2. Documents classified “restricted until examined by the Committee of Ministers” are declassified after the Committee of Ministers has examined the item in question. Prior to declassification, these documents are only visible to member governments and the Secretariat of the Council of Europe. 3. Documents classified “restricted” are declassified a year after being issued. Prior to declassification, these documents are only visible to member governments and the Secretariat of the Council of Europe. 4. Documents classified “confidential” are declassified ten years after being issued. Prior to declassification, these documents are only visible to member governments and the service or committee responsible for the document. Distribution to other parties requires written permission from the author service. 			