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**GRECO: PREVENTION OF CORRUPTION
BY “INTER PARES” CONTROL**

**by
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I. Introduction

Strong political will among member States of the Council of Europe has shaped the organisation's work against corruption for more than a decade, leading to the adoption of a set of comprehensive legal standards and the establishment of GRECO as the relevant monitoring body.

Several milestones have marked the development of this work: in 1994 the Ministers of Justice of Council of Europe member States agreed that corruption should be addressed at European level, as it poses a serious threat to the stability of democratic institutions and, the Council of Europe, as the pre-eminent European institution defending democracy, the rule of law and human rights, was called upon to respond to this threat. A Multidisciplinary group of experts (GMC) was set up in 1994 to prepare a programme of action against corruption, to prepare the necessary legal instruments and to elaborate the basis for a mechanism to monitor the implementation of anti-corruption standards in member States.

Subsequently, a number of anti-corruption legal texts were finalised by the Council of Europe between 1997 and 2000:

The Twenty Guiding Principles against Corruption, (Resolution (97)24 as a catalogue of measures to be included in comprehensive national strategies against corruption: awareness of corruption, transparency in public administration, independence and specialisation of authorities, criminalisation of corruption, proceeds of corruption, legal persons, immunity, media, research etc.

The Criminal Law Convention on Corruption (ETS 173) provides for :

- co-ordinated criminalisation of a wide range of corruption related offences, including private corruption, trading in influence and accounting offences,
- complementary criminal law measures, including corporate liability,
- international co-operation

The Civil Law Convention on Corruption (ETS 174) provides for different measures in the areas of:

- civil remedies, compensation for damage resulting from corruption
- validity of contracts
- protection of whistleblowers

The Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) requires incriminations of corruption offences of domestic, foreign and international arbitrators and jurors.

The Recommendation on Codes of Conduct for Public Officials (Recommendation No. R (2000)10 and, most importantly in this context, the model Code of Conduct, issues guidelines for:

- ethical climate in public administration
- ethical conduct expected from public officials
- information to the public on conduct to be expected.

The Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (Rec(2003)4) deals with

- transparency
- supervision
- sanctions

in the area of financing of political parties and election campaigns.

II. GRECO

The Group of States against Corruption (GRECO) was established in 1999 by 17 European states in order to monitor member States' compliance with the aforementioned standards. Today, GRECO comprises 49 member States and is not limited to Europe – beside European countries the USA are also members of GRECO.

GRECO working methods are characterised by peer-evaluation procedures and a follow-up mechanism, which ensures implementation of recommendations given in the evaluation reports.

Evaluation procedure of GRECO is split into the following sequences:

- specific provisions for evaluation are selected,
- a questionnaire is drafted and sent to members,
- evaluation teams are selected,
- country visits are undertaken,
- evaluation reports are adopted (sometimes after lengthy negotiations),
- recommendations are issued,
- compliance procedure is taking place after 18 months, checking implementation of the recommendations,
- reports are published.

GRECO started its work in 1999 and has split its work into evaluation rounds.

The first evaluation round (2000–2002) dealt with the independence, specialisation and means of national bodies engaged in the prevention of and fight against corruption. It also dealt with the extent and scope of immunities of public officials from arrest, prosecution, etc. At the end of this evaluation round GRECO discovered the following most common problems:

- flaws in the substantive law
- weak implementation of adopted legislation
- other general issues important for the fight against corruption (too excessive immunities, lack of independent anti-corruption mechanisms,..).

The second evaluation round (2003–2006) focused on the identification, seizure and confiscation of corruption proceeds, the prevention and detection of corruption in public administration and the prevention of legal persons (corporations etc) being used as shields for corruption. At the end of this round GRECO discovered the following most common problems:

- weak effectiveness of the anti money laundering mechanisms
- no real solutions for conflicts of interest
- significant problems with pantouflage/revolving doors
- weak whistleblowers' protection
- flaws in the area of responsibility of legal persons.

The third evaluation round, which was launched in January 2007, addresses two distinct areas: compliance with the Criminal Law Convention on Corruption and compliance with certain provisions of the Council of Europe Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (Rec(2003)4) and GPC 15 under the theme "*transparency of party funding*".

The elaboration of a legal text regulating the financing of political parties and election campaigns was rather controversial within the Council of Europe and the adoption of a recommendation (Rec (2003)4 proved to be an unusually lengthy and challenging exercise.

Following several years of preparation at expert level, the text was finally adopted in 2003 by the Committee of Ministers.

In its work regarding party funding, GRECO is focusing, *inter alia*, on the transparency of books and accounts (Articles 11, 12, and 13b of the recommendation), supervision and monitoring in respect of party accounts (Article 14) and is examining whether infringements of rules in this area are subject to appropriate sanctions (Article 16).

Coming to the end of this round (expected at the end of 2011) GRECO already discovered the following most common problems:

- full compliance with ETS 173 and ETS 191 is still not achieved
- not enough transparency in the area of political financing
- lack of proper monitoring mechanisms
- lack of effective, proportionate and dissuasive sanctions.

GRECO has already decided on the topics for the fourth evaluation round, which will formally start with a launching event on 9 November 2011 in Andorra and factually with the first on-site visit in January 2012. In the next years GRECO will deal with the prevention of corruption in the parliaments and in the judiciary (including prosecutors). Without any doubt, the themes chosen will again raise a lot of attention.

III. The future of GRECO

Just recently the European Commission has issued a Communication announcing establishment of an evaluation mechanism, according to which every two years – starting from 2013 – the Commission will issue a report on corruption in the EU Member States. This report will be compiled on the basis of results of existing monitoring mechanisms, including GRECO, and some additional results of surveys stemming from other organisations (e.g. Transparency International). For the time being, no questionnaires and on-site visits are foreseen. If the future mechanism will remain within the announced boundaries it can only represent a reinforcement of GRECO's work since the European Commission has much more political strength than the Council of Europe. If the mechanism will turn into something else, more stronger, that could also mean the end of GRECO and anti-corruption efforts in the non-EU Member States – the EU Member States would, for sure, pay much more attention to their own monitoring mechanism than to GRECO and that would split the “anti-corruption Europe” into two or even three parts: EU Member States + Council of Europe Member States + others. This is something we have to avoid at any price otherwise we can forget our dreams about the joint anti-corruption efforts in the joint Europe.

Meanwhile, GRECO will continue its work. The substance of the fourth evaluation round is already fixed and there are also some new ideas emerging what could be an issue for monitoring afterwards. One of the most interesting ones is the idea on monitoring of future Council of Europe's instruments against manipulation of sports results (match-fixing). Having said that, it is obvious that substantially GRECO can go on for many more years. It is just the question if the competition possibly imposed by the EU will not have devastating consequences for the work of the “jewel of the Council of Europe” as GRECO was flattered by some of the Council of Europe's Member States ambassadors quite often.