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The Council Of Europe¹ Activities For The Fight Against Corruption

Introduction

Activities of the Council of Europe in the field of the fight against corruption are carried out on the basis of a *Programme of Action* adopted by the Committee of Ministers in November 1996.

Several milestones have marked the development of the Council of Europe's activities against corruption. Following the 2nd Summit of Heads of State and Government in October 1997, the Council of Europe Programme of Action against corruption received considerable political impulse and became one of the first priorities for the Organisation and its 41 Member States².

The Council of Europe's approach to the fight against corruption is characterised by its:

- a. **Multidisciplinary.** Corruption is a prism with many sides and requires action of different types.
- b. **Monitoring.** The credibility of instruments against corruption depends upon an appropriate system for evaluating compliance with the obligations arising therefrom. All Council of Europe instruments are linked to the monitoring mechanism provided by the Agreement known as GRECO – Group of States against Corruption.
- c. **Ambition.** Corruption is a serious and complex problem. The Council of Europe strives, therefore, to tackle all forms of corrupt behaviour, without leaving gaps through which corrupt practices may survive or reappear. The aim of the Council of Europe's action is to raise public life standards, to preserve the integrity and impartiality of public administration and the social fabric.
- d. **Comprehensiveness.** The Council of Europe is developing an integrated set of instruments of different types, putting at the disposal of its members a full battery of international law measures against corruption. Each instrument complements the others with a view to building up a net of standards that will render corruption more difficult and costly.
- e. **Flexibility.** Countries are free to sign one or several instrument or to apply soft law as a first step, under appropriate monitoring in all cases. A system of reservations allows for accession to the criminal law convention whilst postponing acceptance of some commitments in order to adapt to new and high standards. Even if there is one single monitoring mechanism, the GRECO, its procedures are also adaptable to the type of provisions being monitored.

¹ For information about the Council of Europe, please visit www.coe.fr or contact the Secretariat General: Directorate General of Legal Affairs, Council of Europe, Palais de l'Europe, F 67075 Strasbourg Cedex, Tel. (33) (0)3 884132125, fax (33) (0)3 88412764.

² The member States of the Council of Europe are: Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

Achievements

Some of the specific results obtained by the Council of Europe in the implementation of its Programme of Action against Corruption are the following.

a) The 20 Guiding principles for the fight against corruption

Following intensive work to define a common framework for national strategies against corruption, the Committee of Ministers adopted in November 1997 the 20 Guiding Principles for the fight against corruption, identifying the areas in which State action is necessary for a comprehensive and efficient strategy against corruption. The Principles deal, inter alia, with prevention of corruption, promotion of ethical behaviour, immunities, media freedom, transparency in decision-making, auditing, codes of conduct for elected representatives, financing of political parties and election campaigns and other topical issues.

Although the Guiding Principles are not, as such, a binding legal text, they carry the political weight of their masters since the Heads of State and Government mandated their elaboration. Moreover, a specific body, GRECO, is entrusted with the task of monitoring their application.

b) The Agreement establishing the "Group of States against Corruption – GRECO" – a monitoring mechanism

In May 1998, six months after the adoption of the Guiding Principles, the Committee of Ministers of the Council of Europe adopted the resolution authorising the setting up of the "Group of States against Corruption" – GRECO".

GRECO aims at improving the capacity of its members to fight corruption by following up, through a dynamic and flexible process of mutual evaluation and peer pressure, compliance with their undertakings in this field and, in particular, with the 20 Guiding Principles for the fight against corruption and the implementation of the Criminal Law Convention and other international legal instruments.

GRECO provides a flexible, dynamic and efficient mechanism to ensure compliance with undertakings in the field of corruption. It defines a master-type procedure, which can be adapted to the different instruments under review. It is opened to the participation of member States and non-member States of the Council of Europe on an equal footing.

Becoming a Party to the Criminal Law Convention or other Council of Europe instruments will entail, automatically, the obligation to participate in GRECO, and to accept its monitoring procedures.

The GRECO agreement became operational on the 1st May 1999. For the time being, 21 countries have already joined it³. Its first budget was adopted in July 1999, enabling GRECO to hold its first Session on 4-6 October 1999. GRECO is expected to grow even more rapidly from now onwards and to become a permanent forum, a pole of reference, for debating and improving anti-corruption policies and measures throughout Europe and beyond

³ Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

c) The Criminal Law Convention on Corruption

This Convention was adopted in November 1998. On the very day of its opening for signature, on 27 January this year, 21 States, several of which represented at Minister level, signed it. Today, it counts already 30 signatures and one ratification. This Convention is, certainly, one of the most comprehensive treaties in this field. It provides for the criminalisation, on the basis of common elements, of a large range of corruption offences, including active and passive corruption of national, foreign and international or supranational public officials, members of parliaments or assemblies, judges, active and passive bribery in private business transactions, trading in influence, laundering of corruption proceeds and corruption in auditing.

In addition, the Convention deals with other substantial or procedural issues, such as jurisdiction, sanctions and measures, liability of legal persons, setting up of specialised authorities for the fight against corruption, co-operation among authorities responsible for law enforcement, protection of witnesses. Finally, it provides for enhanced international co-operation in the prosecution of corruption offences.

It is important to note that this is also an instrument open to accession by non-member States. Of course, becoming a party to the Convention involves automatic acceptance of GRECO's monitoring system.

d) The Civil Law Convention on corruption.

In 1997, a feasibility study showed that it was possible to conceive a number of scenarios in which the use of civil law remedies might be useful against given forms of corruption. On this basis, the Council of Europe has elaborated a Convention dealing with civil remedies for compensation for damage resulting from acts of corruption. This text deals with substantive and procedural issues including, among others, compensation for damage, evidence, liability, non-pecuniary remedies, validity and effect of contracts, transparency and protection of whistle blowers.

As it is the case with the Criminal law convention, the Civil law convention is open to accession by non-member States and becoming a party to it implies automatic acceptance of GRECO's monitoring system.

The Convention was adopted by the Committee of Ministers on 9 September 1999 and was opened for signature at its last ministerial Session (3-4 November 1999). To date, it has been signed by 13 member States.

e) The Model Code of Conduct for Public Officials

The purpose of this text is threefold: to define the ethical climate that should prevail in the public service, to spell out standards of ethical conduct expected from public officials and to inform the public of what conduct to expect from public officials when dealing with them.

The Model Code, both a public document and a message addressed to every individual public official, will reflect and reinforce the basic standards set out in the criminal legislation dealing with dishonesty and corruption; this legislation in turn provides the basis for the Code.

The Model Code is now undergoing a final examination by an intergovernmental committee of experts and is likely to be ready for adoption by the Committee of Ministers early 2000.

Complementary initiatives

f) **The Annual Conferences of Specialised Services in the fight against corruption.**

The Programme of Action Against Corruption stresses the need for exchanges of practical experience among services (e.g. police, prosecutors, senior members of civil service) involved in the fight against corruption, both at national and international level. The Conferences of specialised services, organised on an annual basis in co-operation with the authorities of one country, provide a useful opportunity for exchanging up-to-date information on national techniques and experiences among those who are in the front line against corruption.

The First European Conference of Specialised Services in the Fight against corruption, organised in Strasbourg in 1996, dealt with the setting up and the functioning of specialised authorities and the special features of the investigation and the prosecution of corruption cases. The Second such Conference, held in Tallinn (Estonia) in 1997 dealt with Corruption in Public Procurement. The Third one, held in Madrid in October 1998, considered the topic of trading in influence and illegal financing of political parties, a crucial area touching upon the foundations of democracy. The 4th Conference was held in Cyprus, last 20-22 October 1999. It was devoted to the question of off-shore centres and international co-operation against corruption.

These Conferences of specialised services lead to the adoption of Conclusions, which serve as a source of inspiration for future initiatives.

g) **The Octopus Project.**

The European Commission and the Council of Europe have launched a joint initiative entitled the "Octopus Project" on the fight against corruption and organised crime in countries in transition. During the first phase of this project (1996-1998) an evaluation was made of the problem and of counter-measures taken by the Governments of 16 States⁴ concerned. Following expert missions to the participating countries, recommendations and guidelines were addressed to each one of them.

The Council of Europe and the European Commission have afterwards agreed on a continuation of the Octopus project for the years 1999-2000 (Programme Octopus II) for the benefit of the 16 countries involved in the first phase, as well as Georgia, the most recent member State. It fosters the implementation of recommendations addressed in phase I and help candidate countries of Central and Eastern Europe to prepare for EU accession.

Seminars, workshops and study visits are organised for the benefit of public officials, judges, prosecutors, police officers involved in the fight against corruption and organised crime. The activities cover subjects like investigating techniques, sharing of information, inter-agency co-operation, protection of vulnerable persons, economic crime and international co-operation in criminal matters.

⁴ Albania, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russian Federation, Slovakia, Slovenia, "the former Yugoslav Republic of Macedonia" and Ukraine.