

# COMBATING CORRUPTION



Anti-corruption instruments  
of the Council of Europe

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Anti-corruption instruments  
of the Council of Europe

French edition:

*Combattre la corruption – Les instruments du Conseil de l'Europe sur la lutte contre la corruption*

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# Foreword

## **Fighting corruption: a priority for the Council of Europe**

Several milestones have marked the development of the Council of Europe's activities against corruption. In 1994, the Ministers of Justice of Council of Europe member States recommended that corruption be addressed at European level, as it poses a serious threat to the stability of democratic institutions and the functioning of the market economy.

The Ministers recognised that an effective fight against corruption must take a broad approach and recommended that a Multidisciplinary Group on Corruption (GMC) be set up to prepare a comprehensive programme of action and to examine the possibility of drafting legal instruments in this field. With the creation of the GMC in 1995 the fight against corruption was firmly established as one of the Council of Europe's priorities.

As a result of the GMC's work, the Committee of Ministers of the Council of Europe adopted several anti-corruption standard setting instruments, which are grouped together in this booklet.

The GMC's mandate extended beyond standard setting; it was equally felt important to establish a mechanism to monitor the implementation of the standards adopted, and in May 1999,

the Group of States against Corruption (GRECO) was set up as an enlarged partial agreement. More information about GRECO can be found at the end of this booklet.

July 2012

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## **Resolution (97) 24 on the twenty guiding principles for the fight against corruption**

*(Adopted by the Committee of Ministers on 6 November 1997  
at the 101st session of the Committee of Ministers)*

The Committee of Ministers,

Considering the Declaration adopted at the Second Summit of Heads of State and Government, which took place in Strasbourg on 10 and 11 October 1997 and in pursuance of the Action Plan, in particular section III, paragraph 2 "Fighting corruption and organised crime";

Aware that corruption represents a serious threat to the basic principles and values of the Council of Europe, undermines the confidence of citizens in democracy, erodes the rule of law, constitutes a denial of human rights and hinders social and economic development;

Convinced that the fight against corruption needs to be multi-disciplinary and, in this respect having regard to Programme of Action against Corruption as well as to the resolutions adopted by the European Ministers of Justice at their 19th and 21st Conferences held in Valletta and Prague respectively;

Having received the draft 20 guiding principles for the fight against corruption, elaborated by the Multidisciplinary Group on Corruption (GMC);

Firmly resolved to fight corruption by joining the efforts of our countries,



AGREES TO ADOPT THE 20 GUIDING PRINCIPLES FOR THE FIGHT AGAINST CORRUPTION, SET OUT BELOW:

1. to take effective measures for the prevention of corruption and, in this connection, to raise public awareness and promoting ethical behaviour;
2. to ensure co-ordinated criminalisation of national and international corruption;
3. to ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations;
4. to provide appropriate measures for the seizure and deprivation of the proceeds of corruption offences;
5. to provide appropriate measures to prevent legal persons being used to shield corruption offences;
6. to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society;
7. to promote the specialisation of persons or bodies in charge of fighting corruption and to provide them with appropriate means and training to perform their tasks;
8. to ensure that the fiscal legislation and the authorities in charge of implementing it contribute to combating corruption in an effective and co-ordinated manner, in particular

by denying tax deductibility, under the law or in practice, for bribes or other expenses linked to corruption offences;

9. to ensure that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness;

10. to ensure that the rules relating to the rights and duties of public officials take into account the requirements of the fight against corruption and provide for appropriate and effective disciplinary measures; promote further specification of the behaviour expected from public officials by appropriate means, such as codes of conduct;

11. to ensure that appropriate auditing procedures apply to the activities of public administration and the public sector;

12. to endorse the role that audit procedures can play in preventing and detecting corruption outside public administrations;

13. to ensure that the system of public liability or accountability takes account of the consequences of corrupt behaviour of public officials;

14. to adopt appropriately transparent procedures for public procurement that promote fair competition and deter corruptors;

15. to encourage the adoption, by elected representatives, of codes of conduct and promote rules for the financing of political parties and election campaigns which deter corruption;

16. to ensure that the media have freedom to receive and impart information on corruption matters, subject only to limitations or restrictions which are necessary in a democratic society;
17. to ensure that civil law takes into account the need to fight corruption and in particular provides for effective remedies for those whose rights and interests are affected by corruption;
18. to encourage research on corruption;
19. to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account;
20. to develop to the widest extent possible international cooperation in all areas of the fight against corruption.

AND, IN ORDER TO PROMOTE A DYNAMIC PROCESS FOR EFFECTIVELY PREVENTING AND COMBATING CORRUPTION,

THE COMMITTEE OF MINISTERS

1. invites national authorities to apply these Principles in their domestic legislation and practice;
2. instructs the Multidisciplinary Group on Corruption (GMC) rapidly to complete the elaboration of international legal instruments pursuant to the Programme of Action against Corruption;
3. instructs the Multidisciplinary Group on Corruption (GMC) to submit without delay a draft text proposing the establishment of an appropriate and efficient mechanism, under the

auspices of the Council of Europe, for monitoring observance of these Principles and the implementation of the international legal instruments to be adopted.



# **Criminal Law Convention on corruption (ETS No. 173)**

## **Preamble**

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recognising the value of fostering co-operation with the other States signatories to this Convention;

Convinced of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against corruption, including the adoption of appropriate legislation and preventive measures;

Emphasising that corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society;

Believing that an effective fight against corruption requires increased, rapid and well-functioning international co-operation in criminal matters;

Welcoming recent developments which further advance international understanding and co-operation in combating corruption, including actions of the United Nations, the World Bank, the International Monetary Fund, the World Trade

Organisation, the Organisation of American States, the OECD and the European Union;

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers of the Council of Europe in November 1996 following the recommendations of the 19th Conference of European Ministers of Justice (Valletta, 1994);

Recalling in this respect the importance of the participation of non-member States in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Further recalling that Resolution No. 1 adopted by the European Ministers of Justice at their 21st Conference (Prague, 1997) recommended the speedy implementation of the Programme of Action against Corruption, and called, in particular, for the early adoption of a criminal law convention providing for the co-ordinated incrimination of corruption offences, enhanced co-operation for the prosecution of such offences as well as an effective follow-up mechanism open to member States and non-member States on an equal footing;

Bearing in mind that the Heads of State and Government of the Council of Europe decided, on the occasion of their Second Summit held in Strasbourg on 10 and 11 October 1997, to seek common responses to the challenges posed by the growth in corruption and adopted an Action Plan which, in order to promote co-operation in the fight against corruption, including its links with organised crime and money laundering, instructed the Committee of Ministers, *inter alia*, to secure the

rapid completion of international legal instruments pursuant to the Programme of Action against Corruption;

Considering moreover that Resolution (97) 24 on the 20 Guiding Principles for the Fight against Corruption, adopted on 6 November 1997 by the Committee of Ministers at its 101st Session, stresses the need rapidly to complete the elaboration of international legal instruments pursuant to the Programme of Action against Corruption;

In view of the adoption by the Committee of Ministers, at its 102nd Session on 4 May 1998, of Resolution (98) 7 authorising the partial and enlarged agreement establishing the “Group of States against Corruption – GRECO”, which aims at improving the capacity of its members to fight corruption by following up compliance with their undertakings in this field,

Have agreed as follows:

## **Chapter I – Use of terms**

### **Article 1 – Use of terms**

For the purposes of this Convention:

- a. “public official” shall be understood by reference to the definition of “official”, “public officer”, “mayor”, “minister” or “judge” in the national law of the State in which the person in question performs that function and as applied in its criminal law;
- b. the term “judge” referred to in sub-paragraph a above shall include prosecutors and holders of judicial offices;



- c. in the case of proceedings involving a public official of another State, the prosecuting State may apply the definition of public official only insofar as that definition is compatible with its national law;
- d. “legal person” shall mean any entity having such status under the applicable national law, except for States or other public bodies in the exercise of State authority and for public international organisations.

## **Chapter II – Measures to be taken at national level**

### **Article 2 – Active bribery of domestic public officials**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of its public officials, for himself or herself or for anyone else, for him or her to act or refrain from acting in the exercise of his or her functions.

### **Article 3 – Passive bribery of domestic public officials**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the request or receipt by any of its public officials, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions.

#### **Article 4 – Bribery of members of domestic public assemblies**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person who is a member of any domestic public assembly exercising legislative or administrative powers.

#### **Article 5 – Bribery of foreign public officials**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving a public official of any other State.

#### **Article 6 – Bribery of members of foreign public assemblies**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person who is a member of any public assembly exercising legislative or administrative powers in any other State.

#### **Article 7 – Active bribery in the private sector**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally in the course of

business activity, the promising, offering or giving, directly or indirectly, of any undue advantage to any persons who direct or work for, in any capacity, private sector entities, for themselves or for anyone else, for them to act, or refrain from acting, in breach of their duties.

### **Article 8 – Passive bribery in the private sector**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, in the course of business activity, the request or receipt, directly or indirectly, by any persons who direct or work for, in any capacity, private sector entities, of any undue advantage or the promise thereof for themselves or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in breach of their duties.

### **Article 9 – Bribery of officials of international organisations**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any official or other contracted employee, within the meaning of the staff regulations, of any public international or supranational organisation or body of which the Party is a member, and any person, whether seconded or not, carrying out functions corresponding to those performed by such officials or agents.

## **Article 10 – Bribery of members of international parliamentary assemblies**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Article 4 when involving any members of parliamentary assemblies of international or supranational organisations of which the Party is a member.

## **Article 11 – Bribery of judges and officials of international courts**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3 involving any holders of judicial office or officials of any international court whose jurisdiction is accepted by the Party.

## **Article 12 – Trading in influence**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person referred to in Articles 2, 4 to 6 and 9 to 11 in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence

is exerted or whether or not the supposed influence leads to the intended result.

### **Article 13 – Money laundering of proceeds from corruption offences**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime (ETS No. 141), Article 6, paragraphs 1 and 2, under the conditions referred to therein, when the predicate offence consists of any of the criminal offences established in accordance with Articles 2 to 12 of this Convention, to the extent that the Party has not made a reservation or a declaration with respect to these offences or does not consider such offences as serious ones for the purpose of their money laundering legislation.

### **Article 14 – Account offences**

Each Party shall adopt such legislative and other measures as may be necessary to establish as offences liable to criminal or other sanctions under its domestic law the following acts or omissions, when committed intentionally, in order to commit, conceal or disguise the offences referred to in Articles 2 to 12, to the extent the Party has not made a reservation or a declaration:

- a. creating or using an invoice or any other accounting document or record containing false or incomplete information;

- b. unlawfully omitting to make a record of a payment.

### **Article 15 – Participatory acts**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law aiding or abetting the commission of any of the criminal offences established in accordance with this Convention.

### **Article 16 – Immunity**

The provisions of this Convention shall be without prejudice to the provisions of any Treaty, Protocol or Statute, as well as their implementing texts, as regards the withdrawal of immunity.

### **Article 17 – Jurisdiction**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with Articles 2 to 14 of this Convention where:

- a. the offence is committed in whole or in part in its territory;
- b. the offender is one of its nationals, one of its public officials, or a member of one of its domestic public assemblies;
- c. the offence involves one of its public officials or members of its domestic public assemblies or any person referred to in Articles 9 to 11 who is at the same time one of its nationals.

2. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 b and c of this article or any part thereof.

3. If a Party has made use of the reservation possibility provided for in paragraph 2 of this article, it shall adopt such measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party, solely on the basis of his nationality, after a request for extradition.

4. This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with national law.

## **Article 18 – Corporate liability**

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for the criminal offences of active bribery, trading in influence and money laundering established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a power of representation of the legal person; or

- an authority to take decisions on behalf of the legal person;  
or
- an authority to exercise control within the legal person;

as well as for involvement of such a natural person as accessory or instigator in the above-mentioned offences.

2. Apart from the cases already provided for in paragraph 1, each Party shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of the criminal offences mentioned in paragraph 1 for the benefit of that legal person by a natural person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators of, or accessories to, the criminal offences mentioned in paragraph 1.

### **Article 19 – Sanctions and measures**

1. Having regard to the serious nature of the criminal offences established in accordance with this Convention, each Party shall provide, in respect of those criminal offences established in accordance with Articles 2 to 14, effective, proportionate and dissuasive sanctions and measures, including, when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition.

2. Each Party shall ensure that legal persons held liable in accordance with Article 18, paragraphs 1 and 2, shall be subject



to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

3. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with this Convention, or property the value of which corresponds to such proceeds.

### **Article 20 – Specialised authorities**

Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. The Party shall ensure that the staff of such entities has adequate training and financial resources for their tasks.

### **Article 21 – Co-operation with and between national authorities**

Each Party shall adopt such measures as may be necessary to ensure that public authorities, as well as any public official, co-operate, in accordance with national law, with those of its authorities responsible for investigating and prosecuting criminal offences:

- a. by informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the criminal offences established in accordance with Articles 2 to 14 has been committed, or

- b. by providing, upon request, to the latter authorities all necessary information.

### **Article 22 – Protection of collaborators of justice and witnesses**

Each Party shall adopt such measures as may be necessary to provide effective and appropriate protection for:

- a. those who report the criminal offences established in accordance with Articles 2 to 14 or otherwise co-operate with the investigating or prosecuting authorities;
- b. witnesses who give testimony concerning these offences.

### **Article 23 – Measures to facilitate the gathering of evidence and the confiscation of proceeds**

1. Each Party shall adopt such legislative and other measures as may be necessary, including those permitting the use of special investigative techniques, in accordance with national law, to enable it to facilitate the gathering of evidence related to criminal offences established in accordance with Article 2 to 14 of this Convention and to identify, trace, freeze and seize instrumentalities and proceeds of corruption, or property the value of which corresponds to such proceeds, liable to measures set out in accordance with paragraph 3 of Article 19 of this Convention.

2. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records

be made available or be seized in order to carry out the actions referred to in paragraph 1 of this article.

3. Bank secrecy shall not be an obstacle to measures provided for in paragraphs 1 and 2 of this article.

## **Chapter III – Monitoring of implementation**

### **Article 24 – Monitoring**

The Group of States against Corruption (GRECO) shall monitor the implementation of this Convention by the Parties.

## **Chapter IV – International co-operation**

### **Article 25 – General principles and measures for international co-operation**

1. The Parties shall co-operate with each other, in accordance with the provisions of relevant international instruments on international co-operation in criminal matters, or arrangements agreed on the basis of uniform or reciprocal legislation, and in accordance with their national law, to the widest extent possible for the purposes of investigations and proceedings concerning criminal offences established in accordance with this Convention.

2. Where no international instrument or arrangement referred to in paragraph 1 is in force between Parties, Articles 26 to 31 of this chapter shall apply.

3. Articles 26 to 31 of this chapter shall also apply where they are more favourable than those of the international instruments or arrangements referred to in paragraph 1.

## **Article 26 – Mutual assistance**

1. The Parties shall afford one another the widest measure of mutual assistance by promptly processing requests from authorities that, in conformity with their domestic laws, have the power to investigate or prosecute criminal offences established in accordance with this Convention.
2. Mutual legal assistance under paragraph 1 of this article may be refused if the requested Party believes that compliance with the request would undermine its fundamental interests, national sovereignty, national security or *ordre public*.
3. Parties shall not invoke bank secrecy as a ground to refuse any co-operation under this chapter. Where its domestic law so requires, a Party may require that a request for co-operation which would involve the lifting of bank secrecy be authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.

## **Article 27 – Extradition**

1. The criminal offences established in accordance with this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.
2. If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may

consider this Convention as the legal basis for extradition with respect to any criminal offence established in accordance with this Convention.

3. Parties that do not make extradition conditional on the existence of a treaty shall recognise criminal offences established in accordance with this Convention as extraditable offences between themselves.

4. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.

5. If extradition for a criminal offence established in accordance with this Convention is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case to its competent authorities for the purpose of prosecution unless otherwise agreed with the requesting Party, and shall report the final outcome to the requesting Party in due course.

### **Article 28 – Spontaneous information**

Without prejudice to its own investigations or proceedings, a Party may without prior request forward to another Party information on facts when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request by that Party under this chapter.

## **Article 29 – Central authority**

1. The Parties shall designate a central authority or, if appropriate, several central authorities, which shall be responsible for sending and answering requests made under this chapter, the execution of such requests or the transmission of them to the authorities competent for their execution.
2. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of paragraph 1 of this article.

## **Article 30 – Direct communication**

1. The central authorities shall communicate directly with one another.
2. In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by the judicial authorities, including public prosecutors, of the requesting Party to such authorities of the requested Party. In such cases a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
3. Any request or communication under paragraphs 1 and 2 of this article may be made through the International Criminal Police Organisation (Interpol).
4. Where a request is made pursuant to paragraph 2 of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national

authority and inform directly the requesting Party that it has done so.

5. Requests or communications under paragraph 2 of this article, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.

6. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this chapter are to be addressed to its central authority.

### **Article 31 – Information**

The requested Party shall promptly inform the requesting Party of the action taken on a request under this chapter and the final result of that action. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.

## **Chapter V – Final provisions**

### **Article 32 – Signature and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe and by non-member States which have participated in its elaboration. Such States may express their consent to be bound by:

- a. signature without reservation as to ratification, acceptance or approval; or

- b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which fourteenth States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1. Any such State, which is not a member of the Group of States against Corruption (GRECO) at the time of ratification, shall automatically become a member on the date the Convention enters into force.
4. In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of their consent to be bound by the Convention in accordance with the provisions of paragraph 1. Any signatory State, which is not a member of the Group of States against Corruption (GRECO) at the time of ratification, shall automatically become a member on the date the Convention enters into force in its respect.

### **Article 33 – Accession to the Convention**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting States to the Convention, may invite the European Community as well as any State not a member of the Council and not having participated in its elaboration to accede to this



Convention, by a decision taken by the majority provided for in Article 20d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2. In respect of the European Community and any State acceding to it under paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe. The European Community and any State acceding to this Convention shall automatically become a member of GRECO, if it is not already a member at the time of accession, on the date the Convention enters into force in its respect.

### **Article 34 – Territorial application**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration,

be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

### **Article 35 – Relationship to other conventions and agreements**

1. This Convention does not affect the rights and undertakings derived from international multilateral conventions concerning special matters.
2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.
3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Convention or otherwise have established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate those relations accordingly, in lieu of the present Convention, if it facilitates international co-operation.

### **Article 36 – Declarations**

Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it will establish as criminal offences the active and passive bribery of foreign public officials under Article 5,

of officials of international organisations under Article 9 or of judges and officials of international courts under Article 11, only to the extent that the public official or judge acts or refrains from acting in breach of his duties.

### **Article 37 – Reservations**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, reserve its right not to establish as a criminal offence under its domestic law, in part or in whole, the conduct referred to in Articles 4, 6 to 8, 10 and 12 or the passive bribery offences defined in Article 5.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it avails itself of the reservation provided for in Article 17, paragraph 2.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which the requested Party considers a political offence.

4. No State may, by application of paragraphs 1, 2 and 3 of this article, enter reservations to more than five of the provisions mentioned thereon. No other reservation may be made. Reservations of the same nature with respect to Articles 4, 6 and 10 shall be considered as one reservation.

## **Article 38 – Validity and review of declarations and reservations**

1. Declarations referred to in Article 36 and reservations referred to in Article 37 shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such declarations and reservations may be renewed for periods of the same duration.

2. Twelve months before the date of expiry of the declaration or reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the State concerned. No later than three months before the expiry, the State shall notify the Secretary General that it is upholding, amending or withdrawing its declaration or reservation. In the absence of a notification by the State concerned, the Secretariat General shall inform that State that its declaration or reservation is considered to have been extended automatically for a period of six months. Failure by the State concerned to notify its intention to uphold or modify its declaration or reservation before the expiry of that period shall cause the declaration or reservation to lapse.

3. If a Party makes a declaration or a reservation in conformity with Articles 36 and 37, it shall provide, before its renewal or upon request, an explanation to GRECO, on the grounds justifying its continuance.

## **Article 39 – Amendments**

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of

Europe and to every non-member State which has acceded to, or has been invited to accede to, this Convention in accordance with the provisions of Article 33.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC), which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and, following consultation of the non-member States Parties to this Convention, may adopt the amendment.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

#### **Article 40 – Settlement of disputes**

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.

2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral

tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

#### **Article 41 – Denunciation**

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

#### **Article 42 – Notification**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Convention of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 32 and 33;
- d. any declaration or reservation made under Article 36 or Article 37;
- e. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 27th day of January 1999, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to it.

# **Civil Law Convention on corruption (ETS No. 174)**

## **Preamble**

The member States of the Council of Europe, the other States and the European Community, signatories hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Conscious of the importance of strengthening international co-operation in the fight against corruption;

Emphasising that corruption represents a major threat to the rule of law, democracy and human rights, fairness and social justice, hinders economic development and endangers the proper and fair functioning of market economies;

Recognising the adverse financial consequences of corruption to individuals, companies and States, as well as international institutions;

Convinced of the importance for civil law to contribute to the fight against corruption, in particular by enabling persons who have suffered damage to receive fair compensation;

Recalling the conclusions and resolutions of the 19th (Malta, 1994), 21st (Czech Republic, 1997) and 22nd (Moldova, 1999) Conferences of the European Ministers of Justice;

Taking into account the Programme of Action against Corruption adopted by the Committee of Ministers in November 1996;



Taking also into account the feasibility study on the drawing up of a convention on civil remedies for compensation for damage resulting from acts of corruption, approved by the Committee of Ministers in February 1997;

Having regard to Resolution (97) 24 on the 20 Guiding Principles for the Fight against Corruption, adopted by the Committee of Ministers in November 1997, at its 101st Session, to Resolution (98) 7 authorising the adoption of the Partial and Enlarged Agreement establishing the «Group of States against Corruption (GRECO)», adopted by the Committee of Ministers in May 1998, at its 102nd Session, and to Resolution (99) 5 establishing the GRECO, adopted on 1st May 1999;

Recalling the Final Declaration and the Action Plan adopted by the Heads of State and Government of the member States of the Council of Europe at their 2nd summit in Strasbourg, in October 1997,

Have agreed as follows:

## **Chapter I – Measures to be taken at national level**

### **Article 1 – Purpose**

Each Party shall provide in its internal law for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage.

## **Article 2 – Definition of corruption**

For the purpose of this Convention, "corruption" means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.

## **Article 3 – Compensation for damage**

1. Each Party shall provide in its internal law for persons who have suffered damage as a result of corruption to have the right to initiate an action in order to obtain full compensation for such damage.
2. Such compensation may cover material damage, loss of profits and non-pecuniary loss.

## **Article 4 – Liability**

1. Each Party shall provide in its internal law for the following conditions to be fulfilled in order for the damage to be compensated:
  - i. the defendant has committed or authorised the act of corruption, or failed to take reasonable steps to prevent the act of corruption;
  - ii. the plaintiff has suffered damage; and
  - iii. there is a causal link between the act of corruption and the damage.

2. Each Party shall provide in its internal law that, if several defendants are liable for damage for the same corrupt activity, they shall be jointly and severally liable.

### **Article 5 – State responsibility**

Each Party shall provide in its internal law for appropriate procedures for persons who have suffered damage as a result of an act of corruption by its public officials in the exercise of their functions to claim for compensation from the State or, in the case of a non-state Party, from that Party's appropriate authorities.

### **Article 6 – Contributory negligence**

Each Party shall provide in its internal law for the compensation to be reduced or disallowed having regard to all the circumstances, if the plaintiff has by his or her own fault contributed to the damage or to its aggravation.

### **Article 7 – Limitation periods**

1. Each Party shall provide in its internal law for proceedings for the recovery of damages to be subject to a limitation period of not less than three years from the day the person who has suffered damage became aware or should reasonably have been aware, that damage has occurred or that an act of corruption has taken place, and of the identity of the responsible person. However, such proceedings shall not be commenced after the end of a limitation period of not less than ten years from the date of the act of corruption.

2. The laws of the Parties regulating suspension or interruption of limitation periods shall, if appropriate, apply to the periods prescribed in paragraph 1.

### **Article 8 – Validity of contracts**

1. Each Party shall provide in its internal law for any contract or clause of a contract providing for corruption to be null and void.

2. Each Party shall provide in its internal law for the possibility for all parties to a contract whose consent has been undermined by an act of corruption to be able to apply to the court for the contract to be declared void, notwithstanding their right to claim for damages.

### **Article 9 – Protection of employees**

Each Party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.

### **Article 10 – Accounts and audits**

1. Each Party shall, in its internal law, take any necessary measures for the annual accounts of companies to be drawn up clearly and give a true and fair view of the company's financial position.

2. With a view to preventing acts of corruption, each Party shall provide in its internal law for auditors to confirm that the

annual accounts present a true and fair view of the company's financial position.

### **Article 11 – Acquisition of evidence**

Each Party shall provide in its internal law for effective procedures for the acquisition of evidence in civil proceedings arising from an act of corruption.

### **Article 12 – Interim measures**

Each Party shall provide in its internal law for such court orders as are necessary to preserve the rights and interests of the parties during civil proceedings arising from an act of corruption.

## **Chapter II – International co-operation and monitoring of implementation**

### **Article 13 – International co-operation**

The Parties shall co-operate effectively in matters relating to civil proceedings in cases of corruption, especially concerning the service of documents, obtaining evidence abroad, jurisdiction, recognition and enforcement of foreign judgements and litigation costs, in accordance with the provisions of relevant international instruments on international co-operation in civil and commercial matters to which they are Party, as well as with their internal law.

### **Article 14 – Monitoring**

The Group of States against Corruption (GRECO) shall monitor the implementation of this Convention by the Parties.

## **Chapter III – Final clauses**

### **Article 15 – Signature and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe, by non-member States that have participated in its elaboration and by the European Community.
2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which fourteen signatories have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 2. Any such signatory, which is not a member of the Group of States against Corruption (GRECO) at the time of ratification, acceptance or approval, shall automatically become a member on the date the Convention enters into force.
4. In respect of any signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of their consent to be bound by the Convention in accordance with the provisions of paragraph 2. Any signatory, which is not a member of the Group of States against Corruption (GRECO) at the time of ratification, acceptance or approval, shall automatically

become a member on the date the Convention enters into force in its respect.

5. Any particular modalities for the participation of the European Community in the Group of States against Corruption (GRECO) shall be determined as far as necessary by a common agreement with the European Community.

### **Article 16 – Accession to the Convention**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Parties to the Convention, may invite any State not a member of the Council and not having participated in its elaboration to accede to this Convention, by a decision taken by the majority provided for in Article 20.d. of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee.

2. In respect of any State acceding to it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe. Any State acceding to this Convention shall automatically become a member of the GRECO, if it is not already a member at the time of accession, on the date the Convention enters into force in its respect.

### **Article 17 – Reservations**

No reservation may be made in respect of any provision of this Convention.

## **Article 18 – Territorial application**

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

## **Article 19 – Relationship to other instruments and agreements**

1. This Convention does not affect the rights and undertakings derived from international multilateral instruments concerning special matters.
2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or



strengthening its provisions or facilitating the application of the principles embodied in it or, without prejudice to the objectives and principles of this Convention, submit themselves to rules on this matter within the framework of a special system which is binding at the moment of the opening for signature of this Convention.

3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Convention or otherwise have established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate these relations accordingly, in lieu of the present Convention.

## **Article 20 – Amendments**

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe, to the non member States which have participated in the elaboration of this Convention, to the European Community, as well as to any State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 16.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Legal Co-operation (CDCJ) which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Legal Co-operation (CDCJ) and, following

consultation of the Parties to the Convention which are not members of the Council of Europe, may adopt the amendment.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

### **Article 21 – Settlement of disputes**

1. The European Committee on Legal Co-operation (CDCJ) of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.

2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Legal Co-operation (CDCJ), to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

### **Article 22 – Denunciation**

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 23 – Notification**

The Secretary General of the Council of Europe shall notify the member States of the Council and any other signatories and Parties to this Convention of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention, in accordance with Articles 15 and 16;
- d. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, the 4th day of November 1999, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Community, as well as to any State invited to accede to it.

# **Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials**

*(Adopted by the Committee of Ministers  
at its 106th Session on 11 May 2000)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that public administrations play an essential role in democratic societies and that they must have at their disposal suitable personnel to carry out properly the tasks which are assigned to them;

Considering that public officials are the key element of a public administration, that they have specific duties and obligations, and that they should have the necessary qualifications and an appropriate legal and material environment in order to carry out their tasks effectively;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development and endangers the stability of democratic institutions and the moral foundations of society;

Having regard to the recommendations adopted at the 19th and 21st Conferences of European Ministers of Justice (Valletta, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers in 1996;

Having regard to Recommendation No. R (81) 19 of the Committee of Ministers of the Council of Europe on the access to information held by public authorities;

Having regard to Recommendation No. R (2000) 6 of the Committee of Ministers of the Council of Europe on the status of public officials in Europe;

In accordance with the Final Declaration and the Plan of Action adopted by the heads of state and government of the Council of Europe at their Second Summit, held in Strasbourg, on 10 and 11 October 1997;

Recalling in this respect the importance of the participation of non-member states in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Having regard to Resolution (97) 24 on the twenty guiding principles for the fight against corruption;

Having regard to Resolutions (98) 7 and (99) 5 authorising and respectively adopting the Enlarged Partial Agreement establishing the Group of States against Corruption (GRECO), which aims at improving the capacity of its members to fight

corruption by following up compliance with their undertakings in this field;

Convinced that raising public awareness and promoting ethical values are valuable as means to prevent corruption,

Recommends that the governments of member states promote, subject to national law and the principles of public administration, the adoption of national codes of conduct for public officials based on the model code of conduct for public officials annexed to this Recommendation; and

Instructs the Group of States against Corruption (GRECO) to monitor the implementation of this Recommendation.

## **Appendix to Recommendation No. R (2000) 10**

### **Model code of conduct for public officials**

#### **Interpretation and application**

##### **Article 1**

1. This Code applies to all public officials.
2. For the purpose of this Code "public official" means a person employed by a public authority.
3. The provisions of this Code may also be applied to persons employed by private organisations performing public services.
4. The provisions of this Code do not apply to publicly elected representatives, members of the government and holders of judicial office.

## **Article 2**

1. On the coming into effect of this Code, the public administration has a duty to inform public officials about its provisions.
2. This Code shall form part of the provisions governing the employment of public officials from the moment they certify that they have been informed about it.
3. Every public official has the duty to take all necessary action to comply with the provisions of this Code.

## **Article 3 – Object of the Code**

The purpose of this Code is to specify the standards of integrity and conduct to be observed by public officials, to help them meet those standards and to inform the public of the conduct it is entitled to expect of public officials.

## **General principles**

### **Article 4**

1. The public official should carry out his or her duties in accordance with the law, and with those lawful instructions and ethical standards which relate to his or her functions.
2. The public official should act in a politically neutral manner and should not attempt to frustrate the lawful policies, decisions or actions of the public authorities.

## **Article 5**

1. The public official has the duty to serve loyally the lawfully constituted national, local or regional authority.
2. The public official is expected to be honest, impartial and efficient and to perform his or her duties to the best of his or her ability with skill, fairness and understanding, having regard only for the public interest and the relevant circumstances of the case.
3. The public official should be courteous both in his or her relations with the citizens he or she serves, as well as in his or her relations with his or her superiors, colleagues and subordinate staff.

## **Article 6**

In the performance of his or her duties, the public official should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

## **Article 7**

In decision making the public official should act lawfully and exercise his or her discretionary powers impartially, taking into account only relevant matters.

## **Article 8**

1. The public official should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.



2. The public official should never take undue advantage of his or her position for his or her private interest.

### **Article 9**

The public official has a duty always to conduct himself or herself in a way that the public's confidence and trust in the integrity, impartiality and effectiveness of the public service are preserved and enhanced.

### **Article 10**

The public official is accountable to his or her immediate hierarchical superior unless otherwise prescribed by law.

### **Article 11**

Having due regard for the right of access to official information, the public official has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her employment.

### **Article 12 – Reporting**

1. The public official who believes he or she is being required to act in a way which is unlawful, improper or unethical, which involves maladministration, or which is otherwise inconsistent with this Code, should report the matter in accordance with the law.

2. The public official should, in accordance with the law, report to the competent authorities if he or she becomes aware of breaches of this Code by other public officials.
3. The public official who has reported any of the above in accordance with the law and believes that the response does not meet his or her concern may report the matter in writing to the relevant head of the public service.
4. Where a matter cannot be resolved by the procedures and appeals set out in the legislation on the public service on a basis acceptable to the public official concerned, the public official should carry out the lawful instructions he or she has been given.
5. The public official should report to the competent authorities any evidence, allegation or suspicion of unlawful or criminal activity relating to the public service coming to his or her knowledge in the course of, or arising from, his or her employment. The investigation of the reported facts shall be carried out by the competent authorities.
6. The public administration should ensure that no prejudice is caused to a public official who reports any of the above on reasonable grounds and in good faith.

### **Article 13 – Conflict of interest**

1. Conflict of interest arises from a situation in which the public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.
2. The public official's private interest includes any advantage to himself or herself, to his or her family, close relatives, friends

and persons or organisations with whom he or she has or has had business or political relations. It includes also any liability, whether financial or civil, relating thereto.

3. Since the public official is usually the only person who knows whether he or she is in that situation, the public official has a personal responsibility to:

- be alert to any actual or potential conflict of interest;
- take steps to avoid such conflict;
- disclose to his or her supervisor any such conflict as soon as he or she becomes aware of it;
- comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.

4. Whenever required to do so, the public official should declare whether or not he or she has a conflict of interest.

5. Any conflict of interest declared by a candidate to the public service or to a new post in the public service should be resolved before appointment.

## **Article 14 – Declaration of interests**

The public official who occupies a position in which his or her personal or private interests are likely to be affected by his or her official duties should, as lawfully required, declare upon appointment, at regular intervals thereafter and whenever any changes occur the nature and extent of those interests.

## **Article 15 – Incompatible outside interests**

1. The public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official. Where it is not clear whether an activity is compatible, he or she should seek advice from his or her superior.
2. Subject to the provisions of the law, the public official should be required to notify and seek the approval of his or her public service employer to carry out certain activities, whether paid or unpaid, or to accept certain positions or functions outside his or her public service employment.
3. The public official should comply with any lawful requirement to declare membership of, or association with, organisations that could detract from his or her position or proper performance of his or her duties as a public official.

## **Article 16 – Political or public activity**

1. Subject to respect for fundamental and constitutional rights, the public official should take care that none of his or her political activities or involvement on political or public debates impairs the confidence of the public and his or her employers in his or her ability to perform his or her duties impartially and loyally.
2. In the exercise of his or her duties, the public official should not allow himself or herself to be used for partisan political purposes.
3. The public official should comply with any restrictions on political activity lawfully imposed on certain categories of

public officials by reason of their position or the nature of their duties.

### **Article 17 – Protection of the public official’s privacy**

All necessary steps should be taken to ensure that the public official’s privacy is appropriately respected; accordingly, declarations provided for in this Code are to be kept confidential unless otherwise provided for by law.

### **Article 18 – Gifts**

1. The public official should not demand or accept gifts, favours, hospitality or any other benefit for himself or his or her family, close relatives and friends, or persons or organisations with whom he or she has or has had business or political relations which may influence or appear to influence the impartiality with which he or she carries out his or her duties or may be or appear to be a reward relating to his or her duties. This does not include conventional hospitality or minor gifts.
2. Where the public official is in doubt whether he or she can accept a gift or hospitality, he or she should seek the advice of his or her superior.

### **Article 19 – Reaction to improper offers**

If the public official is offered an undue advantage he or she should take the following steps to protect himself or herself:

- refuse the undue advantage; there is no need to accept it for use as evidence;
- try to identify the person who made the offer;

- avoid lengthy contacts, but knowing the reason for the offer could be useful in evidence;
- if the gift cannot be refused or returned to the sender, it should be preserved, but handled as little as possible;
- obtain witnesses if possible, such as colleagues working nearby;
- prepare as soon as possible a written record of the attempt, preferably in an official notebook;
- report the attempt as soon as possible to his or her supervisor or directly to the appropriate law enforcement authority;
- continue to work normally, particularly on the matter in relation to which the undue advantage was offered.

### **Article 20 – Susceptibility to influence by others**

The public official should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

### **Article 21 – Misuse of official position**

1. The public official should not offer or give any advantage in any way connected with his or her position as a public official, unless lawfully authorised to do so.
2. The public official should not seek to influence for private purposes any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

## **Article 22 – Information held by public authorities**

1. Having regard to the framework provided by domestic law for access to information held by public authorities, a public official should only disclose information in accordance with the rules and requirements applying to the authority by which he or she is employed.
2. The public official should take appropriate steps to protect the security and confidentiality of information for which he or she is responsible or of which he or she becomes aware.
3. The public official should not seek access to information which it is inappropriate for him or her to have. The public official should not make improper use of information which he or she may acquire in the course of, or arising from, his or her employment.
4. Equally the public official has a duty not to withhold official information that should properly be released and a duty not to provide information which he or she knows or has reasonable ground to believe is false or misleading.

## **Article 23 – Public and official resources**

In the exercise of his or her discretionary powers, the public official should ensure that on the one hand the staff, and on the other hand the public property, facilities, services and financial resources with which he or she is entrusted are managed and used effectively, efficiently and economically. They should not be used for private purposes except when permission is lawfully given.

## **Article 24 – Integrity checking**

1. The public official who has responsibilities for recruitment, promotion or posting should ensure that appropriate checks on the integrity of the candidate are carried out as lawfully required.
2. If the result of any such check makes him or her uncertain as to how to proceed, he or she should seek appropriate advice.

## **Article 25 – Supervisory accountability**

1. The public official who supervises or manages other public officials should do so in accordance with the policies and purposes of the public authority for which he or she works. He or she should be answerable for acts or omissions by his or her staff which are not consistent with those policies and purposes if he or she has not taken those reasonable steps required from a person in his or her position to prevent such acts or omissions.
2. The public official who supervises or manages other public officials should take reasonable steps to prevent corruption by his or her staff in relation to his or her office. These steps may include emphasising and enforcing rules and regulations, providing appropriate education or training, being alert to signs of financial or other difficulties of his or her staff, and providing by his or her personal conduct an example of propriety and integrity.

## **Article 26 – Leaving the public service**

1. The public official should not take improper advantage of his or her public office to obtain the opportunity of employment outside the public service.



2. The public official should not allow the prospect of other employment to create for him or her an actual, potential or apparent conflict of interest. He or she should immediately disclose to his or her supervisor any concrete offer of employment that could create a conflict of interest. He or she should also disclose to his or her superior his or her acceptance of any offer of employment.
3. In accordance with the law, for an appropriate period of time, the former public official should not act for any person or body in respect of any matter on which he or she acted for, or advised, the public service and which would result in a particular benefit to that person or body.
4. The former public official should not use or disclose confidential information acquired by him or her as a public official unless lawfully authorised to do so.
5. The public official should comply with any lawful rules that apply to him or her regarding the acceptance of appointments on leaving the public service.

### **Article 27 – Dealing with former public officials**

The public official should not give preferential treatment or privileged access to the public service to former public officials.

### **Article 28 – Observance of this Code and sanctions**

1. This Code is issued under the authority of the minister or of the head of the public service. The public official has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions

and any amendments. He or she should seek advice from an appropriate source when he or she is unsure of how to proceed.

2. Subject to Article 2, paragraph 2, the provisions of this Code form part of the terms of employment of the public official. Breach of them may result in disciplinary action.

3. The public official who negotiates terms of employment should include in them a provision to the effect that this Code is to be observed and forms part of such terms.

4. The public official who supervises or manages other public officials has the responsibility to see that they observe this Code and to take or propose appropriate disciplinary action for breaches of it.

5. The public administration will regularly review the provisions of this Code.

# **Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191)**

The member States of the Council of Europe and the other States signatory hereto,

Considering that it is desirable to supplement the Criminal Law Convention on Corruption (ETS No. 173, hereafter “the Convention”) in order to prevent and fight against corruption;

Considering also that the present Protocol will allow the broader implementation of the 1996 Programme of Action against Corruption,

Have agreed as follows:

## **Chapter I – Use of terms**

### **Article 1 – Use of terms**

For the purpose of this Protocol:

1. The term “*arbitrator*” shall be understood by reference to the national law of the States Parties to this Protocol, but shall in any case include a person who by virtue of an arbitration agreement is called upon to render a legally binding decision in a dispute submitted to him/her by the parties to the agreement.
2. The term “*arbitration agreement*” means an agreement recognised by the national law whereby the parties agree to submit a dispute for a decision by an arbitrator.

3. The term “*juror*” shall be understood by reference to the national law of the States Parties to this Protocol but shall in any case include a lay person acting as a member of a collegial body which has the responsibility of deciding on the guilt of an accused person in the framework of a trial.

4. In the case of proceedings involving a foreign arbitrator or juror, the prosecuting State may apply the definition of arbitrator or juror only in so far as that definition is compatible with its national law.

## **Chapter II – Measures to be taken at national level**

### **Article 2 – Active bribery of domestic arbitrators**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to an arbitrator exercising his/her functions under the national law on arbitration of the Party, for himself or herself or for anyone else, for him or for her to act or refrain from acting in the exercise of his or her functions.

### **Article 3 – Passive bribery of domestic arbitrators**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the request or

receipt by an arbitrator exercising his/her functions under the national law on arbitration of the Party, directly or indirectly, of any undue advantage for himself or herself or for anyone else, or the acceptance of an offer or promise of such an advantage, to act or refrain from acting in the exercise of his or her functions.

#### **Article 4 – Bribery of foreign arbitrators**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving an arbitrator exercising his/her functions under the national law on arbitration of any other State.

#### **Article 5 – Bribery of domestic jurors**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person acting as a juror within its judicial system.

#### **Article 6 – Bribery of foreign jurors**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person acting as a juror within the judicial system of any other State.

## **Chapter III – Monitoring of implementation and final provisions**

### **Article 7 – Monitoring of implementation**

The Group of States against Corruption (GRECO) shall monitor the implementation of this Protocol by the Parties.

### **Article 8 – Relationship to the Convention**

1. As between the States Parties the provisions of Articles 2 to 6 of this Protocol shall be regarded as additional articles to the Convention.
2. The provisions of the Convention shall apply to the extent that they are compatible with the provisions of this Protocol.

### **Article 9 – Declarations and reservations**

1. If a Party has made a declaration in accordance with Article 36 of the Convention, it may make a similar declaration relating to Articles 4 and 6 of this Protocol at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.
2. If a Party has made a reservation in accordance with Article 37, paragraph 1, of the Convention restricting the application of the passive bribery offences defined in Article 5 of the Convention, it may make a similar reservation concerning Articles 4 and 6 of this Protocol at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. Any other reservation made by a Party, in accordance with Article 37 of the Convention shall be applicable also

to this Protocol, unless that Party other-wise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

3. No other reservation may be made.

### **Article 10 – Signature and entry into force**

1. This Protocol shall be open for signature by States which have signed the Convention. These States may express their consent to be bound by:

- a. signature without reservation as to ratification, acceptance or approval; or
- b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date on which five States have expressed their consent to be bound by the Protocol in accordance with the provisions of paragraphs 1 and 2, and only after the Convention itself has entered into force.

4. In respect of any signatory State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date of the expression of its consent to be bound by the Protocol in accordance with the provisions of paragraphs 1 and 2.

5. A signatory State may not ratify, accept or approve this Protocol without having, simultaneously or previously, expressed its consent to be bound by the Convention.

### **Article 11 – Accession to the Protocol**

1. Any State or the European Community having acceded to the Convention may accede to this Protocol after it has entered into force.

2. In respect of any State or the European Community acceding to the Protocol, it shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of an instrument of accession with the Secretary General of the Council of Europe.

### **Article 12 – Territorial application**

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any Party may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date of receipt of such declaration by the Secretary General.



3. Any declaration made in pursuance of the two preceding paragraphs may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 13 – Denunciation**

1. Any Party may, at any time, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

3. Denunciation of the Convention automatically entails denunciation of this Protocol.

### **Article 14 – Notification**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State, or the European Community, having acceded to this Protocol of:

- a. any signature of this Protocol;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Protocol in accordance with Articles 10, 11 and 12;

- d. any declaration or reservation made under Articles 9 and 12;
- e. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 15th day of May 2003, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

## **Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns**

*(Adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that political parties are a fundamental element of the democratic systems of states and are an essential tool of expression of the political will of citizens;

Considering that political parties and electoral campaigns funding in all states should be subject to standards in order to prevent and fight against the phenomenon of corruption;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development, endangers the stability of democratic institutions and undermines the moral foundations of society;

Having regard to the recommendations adopted at the 19th and 21st Conferences of European Ministers of Justice (Valette, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers in 1996;

In accordance with the Final Declaration and the Plan of Action adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10 and 11 October 1997;

Having regard to Resolution (97) 24 on the twenty guiding principles for the fight against corruption, adopted by the Committee of Ministers on 6 November 1997 and in particular Principle 15, which promotes rules for the financing of political parties and election campaigns which deter corruption;

Having regard to Recommendation 1516 (2001) on the financing of political parties, adopted on 22 May 2001 by the Council of Europe's Parliamentary Assembly;

In the light of the conclusions of the 3rd European Conference of Specialised Services in the Fight against Corruption on the subject of Trading in Influence and Illegal Financing of Political Parties held in Madrid from 28 to 30 October 1998;

Recalling in this respect the importance of the participation of non-member states in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Having regard to Resolution (98) 7 authorising the Partial and Enlarged Agreement establishing the Group of States against Corruption (GRECO) and Resolution (99) 5 establishing the Group of States against Corruption (GRECO), which aims at

improving the capacity of its members to fight corruption by following up compliance with their undertakings in this field;

Convinced that raising public awareness on the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions,

Recommends that the governments of member states adopt, in their national legal systems, rules against corruption in the funding of political parties and electoral campaigns which are inspired by the common rules reproduced in the appendix to this recommendation, – in so far as states do not already have particular laws, procedures or systems that provide effective and well-functioning alternatives, and instructs the "Group of States against Corruption – GRECO" to monitor the implementation of this recommendation.

## **Appendix**

### **Common rules against corruption in the funding of political parties and electoral campaigns**

#### **I. External sources of funding of political parties**

##### **Article 1 – Public and private support to political parties**

The state and its citizens are both entitled to support political parties.

The state should provide support to political parties. State support should be limited to reasonable contributions. State support may be financial.

Objective, fair and reasonable criteria should be applied regarding the distribution of state support.

States should ensure that any support from the state and/or citizens does not interfere with the independence of political parties.

##### **Article 2 – Definition of donation to a political party**

Donation means any deliberate act to bestow advantage, economic or otherwise, on a political party.

##### **Article 3 – General principles on donations**

a. Measures taken by states governing donations to political parties should provide specific rules to:

- avoid conflicts of interests;

- ensure transparency of donations and avoid secret donations;
  - avoid prejudice to the activities of political parties;
  - ensure the independence of political parties.
- b. States should:
- i. provide that donations to political parties are made public, in particular, donations exceeding a fixed ceiling;
  - ii. consider the possibility of introducing rules limiting the value of donations to political parties;
  - iii. adopt measures to prevent established ceilings from being circumvented.

#### **Article 4 – Tax deductibility of donations**

Fiscal legislation may allow tax deductibility of donations to political parties. Such tax deductibility should be limited.

#### **Article 5 – Donations by legal entities**

- a. In addition to the general principles on donations, states should provide:
- i. that donations from legal entities to political parties are registered in the books and accounts of the legal entities; and
  - ii. that shareholders or any other individual member of the legal entity be informed of donations.

- b. States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.
- c. States should prohibit legal entities under the control of the state or of other public authorities from making donations to political parties.

### **Article 6 – Donations to entities connected with a political party**

Rules concerning donations to political parties, with the exception of those concerning tax deductibility referred to in Article 4, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party.

### **Article 7 – Donations from foreign donors**

States should specifically limit, prohibit or otherwise regulate donations from foreign donors.

## **II. Sources of funding of candidates for elections and elected officials**

### **Article 8 – Application of funding rules to candidates for elections and elected representatives**

The rules regarding funding of political parties should apply *mutatis mutandis* to:

- the funding of electoral campaigns of candidates for elections;



- the funding of political activities of elected representatives.

### **III. Electoral campaign expenditure**

#### **Article 9 – Limits on expenditure**

States should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns.

#### **Article 10 – Records of expenditure**

States should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.

### **IV. Transparency**

#### **Article 11 – Accounts**

States should require political parties and the entities connected with political parties mentioned in Article 6 to keep proper books and accounts. The accounts of political parties should be consolidated to include, as appropriate, the accounts of the entities mentioned in Article 6.

#### **Article 12 – Records of donations**

- a. States should require the accounts of a political party to specify all donations received by the party, including the nature and value of each donation.

b. In case of donations over a certain value, donors should be identified in the records.

### **Article 13 – Obligation to present and make public accounts**

a. States should require political parties to present the accounts referred to in Article 11 regularly, and at least annually, to the independent authority referred to in Article 14.

b. States should require political parties regularly, and at least annually, to make public the accounts referred to in Article 11 or as a minimum a summary of those accounts, including the information required in Article 10, as appropriate, and in Article 12.

## **V. Supervision**

### **Article 14 – Independent monitoring**

a. States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns.

b. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.

### **Article 15 – Specialised personnel**

States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.

## **VI. Sanctions**

### **Article 16 – Sanctions**

States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.

## **Resolution (99) 5 establishing the Group of States against Corruption (GRECO)**

*(Adopted by the Committee of Ministers on 1st May 1999 at the 668th meeting of the Ministers' Deputies)*

The representatives on the Committee of Ministers of Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Lithuania, Luxembourg, Romania, Slovakia, Slovenia, Spain, Sweden,

Convinced that corruption represents a major threat to the rule of law, democracy, human rights, fairness and social justice, hinders economic development, and endangers the stability of democratic institutions and the moral foundations of society;

Conscious of the need to promote co-operation between States in the fight against corruption, including its links with organised crime and money laundering;

Emphasising that a successful strategy to combat corruption requires a firm commitment by States to join their efforts, share experience and take common actions;

Recognising that raising public awareness and promoting ethical values are effective means of preventing corruption;

Having regard to the recommendations of the 19th Conference of the European Ministers of Justice (Malta, 1994);

Taking into account the Programme of Action against Corruption, adopted by the Committee of Ministers of the Council of Europe in 1996 and the work undertaken by the Multidisciplinary Group on Corruption (GMC) in pursuance thereof;

Taking into account the results of the Joint project between the European Commission (Phare Programme) and the Council of Europe on the fight against corruption and organised crime in States in transition («Octopus Project»);

Having regard to Resolution No. 1 on the links between corruption and organised crime, adopted at the 21st Conference of the European Ministers of Justice (Prague, 1997);

Having regard to the Final Declaration adopted at the Second Summit of Heads of State and Government of the Member States of the Council of Europe (Strasbourg, 10-11 October 1997) by which the Heads of State and Government decided to seek common responses to the challenges posed by the growth of corruption and organised crime;

In accordance with the Action Plan adopted at the Second Summit of Heads of State and Government of the Member States of the Council of Europe (Strasbourg, 10-11 October 1997) in which the Heads of State and Government, with a view to promoting co-operation in the fight against corruption, including its links with organised crime and money laundering, instructed the Committee of Ministers, inter alia, to adopt guiding principles to be applied in the development of domestic legislation and practice and to establish without delay an appropriate and efficient mechanism for monitoring observance of the guiding principles and the implementation

of the other international instruments which will be adopted in pursuance of the Programme of Action against Corruption;

Having regard to the 20 Guiding Principles for the Fight against Corruption, adopted by the Committee of Ministers at its 101st meeting on 6 November 1997 (hereinafter referred to as the "Guiding Principles");

Convinced that the establishment of the GRECO, where Member States and non-Member States of the Council of Europe participate on an equal footing, would make a significant contribution to the promotion of a dynamic process towards effectively preventing and combating corruption;

Persuaded that by means of mutual evaluation and peer pressure, the GRECO shall be able to monitor in a flexible and efficient manner the observance of the Guiding Principles and the implementation of the international instruments adopted by the Council of Europe to fight against corruption;

Convinced that full membership of the GRECO should therefore be reserved to those which participate without restrictions in mutual evaluation procedures and accept to be evaluated through them;

Having regard to Resolution (98) 7 adopted by the Committee of Ministers on 5 May 1998, on the occasion of its 102nd session at ministerial level, authorising the adoption of the present agreement;

HEREBY,

RESOLVE to establish the Group of States against Corruption (GRECO) by means of this Enlarged Partial Agreement, governed by the Statute appended thereto;

AGREE that the GRECO is established for an initial period of three years;

AGREE to review the functioning of the GRECO by the end of the initial period of three years;

EXPRESS the wish that all Member States of the Council of Europe become members of the GRECO in the near future.

## **Appendix to Resolution (99) 5**

### **Statute of the Group of States against Corruption (GRECO)**

#### **Article 1 – Aim of the GRECO**

The aim of the Group of States against Corruption (hereinafter referred to as the «GRECO») is to improve the capacity of its members to fight corruption by following up, through a dynamic process of mutual evaluation and peer pressure, compliance with their undertakings in this field.

#### **Article 2 – Functions of the GRECO**

In order to achieve the aim laid down in Article 1, the GRECO shall:

- i. monitor the observance of the Guiding Principles for the Fight against Corruption as adopted by the

Committee of Ministers of the Council of Europe on 6 November 1997;

- ii. monitor the implementation of international legal instruments to be adopted in pursuance of the Programme of Action against Corruption, in conformity with the provisions contained in such instruments;

### **Article 3 – Seat**

The GRECO's seat shall be in Strasbourg.

### **Article 4 – Procedure for membership of the GRECO**

1. Any Member States of the Council of Europe, other than those mentioned in the Resolution establishing the GRECO, may join the GRECO at any time by so notifying the Secretary General of the Council of Europe.

2. Any non-Member States having participated in the elaboration of this Enlarged Partial Agreement<sup>1</sup> may join the GRECO at any time by so notifying the Secretary General of the Council of Europe. The notification shall be accompanied by a declaration to the effect that the non-Member States undertakes to apply the Guiding Principles for the Fight against Corruption, adopted by the Committee of Ministers of the Council of Europe on 6 November 1997.

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1. These States are the following: Belarus (10), Canada (11), Holy See (10), Japan (10), Mexico (10) and United States of America (11). Bosnia and Herzegovina has participated twice in GMC meetings.



3. States which become Parties to international legal instruments adopted by the Committee of Ministers of the Council of Europe in pursuance of the Programme of Action against Corruption providing for compulsory membership of the GRECO shall become members of the GRECO *ipso facto* in conformity with the provisions contained in these instruments.

4. The Committee of Ministers of the Council of Europe in its composition restricted to the States members of the Enlarged Partial Agreement, following consultation of the non-Member States already participating, may invite non-Member States, other than those covered by paragraph 2 above, to join the GRECO. The non-Member States having received such an invitation, shall notify to the Secretary General its intention to join the GRECO, accompanied by a declaration to the effect that it undertakes to apply the Guiding Principles for the Fight against Corruption.

### **Article 5 – Participation of the European Community**

The European Community may be invited by the Committee of Ministers to participate in the work of the GRECO. The modalities of its participation shall be determined in the resolution inviting it to participate.

### **Article 6 – Composition of the GRECO**

1. Each member shall appoint a delegation to the GRECO consisting of not more than two representatives. One representative shall be appointed as head of the delegation.

2. The budget of the Enlarged Partial Agreement shall bear the travel and subsistence expenses of one of the representatives of the delegation.
3. The representatives appointed to the GRECO shall enjoy the privileges and immunities applicable under Article 2 of the Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.

### **Article 7 – Other Representatives**

1. The European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC) shall each appoint a representative to the GRECO.
2. The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the GRECO after consulting the latter.
3. The Statutory Committee, set up under Article 18 below, shall appoint a representative to the GRECO.
4. Representatives appointed under paragraphs 1 to 3 above shall participate in plenary meetings of the GRECO without the right to vote. Their travel and subsistence expenses shall not be borne by the budget of the Enlarged Partial Agreement.

### **Article 8 – Operation of the GRECO**

1. The GRECO shall take the necessary decisions for its operation. In particular, it shall:
  - i. adopt evaluation reports in accordance with Article 15;

- ii. approve its draft annual programme of activities and submit, in conformity with the Financial Regulations, proposals to the Secretary General of the Council of Europe relating to the elaboration of the draft annual budget, prior to its transmission to the Statutory Committee set up under Article 18 below;
  - iii. approve its annual activity report, including its annual accounts, prior to its submission to the Statutory Committee and to the Committee of Ministers;
2. The GRECO shall hold at least two plenary meetings a year and may decide to set up working parties whenever necessary and in accordance with its Rules of Procedure.
3. The GRECO will publish every year its annual report of activities including its annual accounts, once approved by the relevant bodies pursuant to Article 18 below.
4. The GRECO shall draw up its own Rules of Procedure. Any State or the European Community, when becoming a member of the GRECO, shall be deemed to have accepted the Statute and the Rules of Procedures of the GRECO.
5. The GRECO shall hold its meetings in camera.
6. Members of the GRECO participating in the mutual evaluation shall have the right to vote. Each of them shall be entitled to cast one vote. However, unless otherwise decided by the Statutory Committee, a member which has failed to pay all or

a substantial part of its compulsory contribution to the budget of the enlarged partial agreement for a period of two years, shall no longer take part in the decision-making process.

7. Decisions of the GRECO shall be taken by two-thirds of the votes cast<sup>2</sup> and the majority of those entitled to vote. However, procedural decisions shall be taken by a majority of the votes cast.

8. The GRECO shall elect its President and Vice-President among the representatives of the members entitled to vote.

## **Article 9 – Bureau**

1. There shall be a Bureau composed of the President and the Vice-President referred to in Article 8 paragraph 8 above and five other persons elected by the GRECO, among the representatives of the members entitled to vote which are, as far as possible, Parties to at least one of the international legal instruments adopted in pursuance of the Programme of action against corruption.

2. The Bureau shall carry out the following functions:
- prepare the preliminary draft annual programme of activities and the draft annual activity report;
  - make proposals to the GRECO concerning the preliminary draft budget;

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2. Only votes “in favour” or “against” are taken into account when counting the number of votes cast (Article 10 paragraph 5 of the Rules of Procedure of the Ministers’ Deputies).

- organise country visits on the basis of the decisions taken by the GRECO;
  - make proposals to the GRECO on the composition of the ad hoc evaluation teams;
  - prepare the agenda for the meetings of the GRECO including those at which evaluation reports will be discussed;
  - make proposals to the GRECO as regards the provisions to be selected for evaluation procedures in pursuance of Article 10 paragraph 3 below;
  - make proposals to the GRECO concerning the appointment of scientific experts and consultants.
3. The Bureau shall carry out any other function assigned to it by the GRECO.
4. The Bureau shall exercise its functions under the general supervision of the GRECO.

### **Article 10 – Evaluation procedure**

1. The GRECO shall conduct evaluation procedures in respect of each of its members in pursuance of Article 2.
2. The evaluation shall be divided in rounds. An evaluation round is a period of time determined by the GRECO, during which an evaluation procedure shall be conducted to assess the compliance of members with selected provisions contained in the Guiding Principles and in other international legal instruments adopted in pursuance of the Programme of Action against Corruption.

3. At the beginning of each round the GRECO shall select the specific provisions on which the evaluation procedure shall be based.
4. Each member shall identify a maximum of 5 experts who would be able to undertake the tasks set out in Articles 12-14.
5. Each member shall ensure that its authorities co-operate, to the fullest possible extent, in the evaluation procedure, within the limits of its national legislation.

### **Article 11 – Questionnaire**

1. The GRECO shall adopt a questionnaire for each evaluation round, which shall be addressed to all members concerned by the evaluation.
2. The questionnaire shall provide the framework of the evaluation procedure.
3. Members shall address their replies to the Secretariat within the time limits fixed by the GRECO.

### **Article 12 – Evaluation teams**

1. The GRECO shall appoint, from the experts referred to in paragraph 4 of Article 10, a team for the evaluation of each member (hereinafter referred to as "the team"). When the evaluation concerns the implementation of one of the international legal instruments adopted in pursuance of the Programme of Action against Corruption, the GRECO shall appoint teams composed exclusively of experts proposed by members who are Parties to the instrument concerned.

2. The team shall examine the replies given to the questionnaire and may request, where appropriate, additional information from the member undergoing the evaluation, to be submitted either orally or in writing.
3. The budget of the Enlarged and Partial Agreement shall bear the travel and subsistence expenses of the experts participating in the teams.

### **Article 13 – Country visits**

1. The GRECO may instruct the team to visit a member, for the purpose of seeking additional information concerning its law or practice, which is useful for the evaluation.
2. The GRECO shall give a minimum of two months notice to the member concerned of its intention to carry out the visit.
3. The visit shall be carried out in accordance with a programme arranged by the member concerned, taking into account the wishes expressed by the team.
4. The members of the team shall enjoy the privileges and immunities applicable under Article 2 of the Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.
5. The budget of the Enlarged Partial Agreement shall bear the travel and subsistence expenses necessary for the carrying out country visits.

## **Article 14 – Evaluation reports**

1. On the basis of the information gathered, the team shall prepare a preliminary draft evaluation report on the state of the law and the practice in relation to the provisions selected for the evaluation round.
2. The preliminary draft report shall be transmitted to the member undergoing the evaluation for comments. These comments shall be taken into account by the team when finalising the draft report.
3. The draft report shall be submitted to the GRECO.

## **Article 15 – Discussion and adoption of reports**

1. The GRECO shall debate in Plenary the draft report submitted by the team.
2. The member undergoing the evaluation shall be entitled to submit observations orally and/or in writing to the Plenary.
3. At the close of the debate, the GRECO shall adopt, with or without amendments, the report in respect of the member undergoing the evaluation.
4. All members shall be entitled to participate in the vote leading to the adoption of evaluation reports relating to the application of the Guiding Principles. Only members which are Parties to an international legal instrument adopted in pursuance of the Programme of Action against Corruption shall be entitled to participate in the vote leading to the adoption of evaluation reports on the implementation of the instrument concerned.



5. Evaluation reports shall be confidential. Unless otherwise decided, access to these reports shall be restricted to members of the team which has carried out the evaluation, in addition to members of the GRECO, of the Statutory Committee and of the Secretariat of these bodies.

6. The GRECO's report may contain recommendations addressed to the member undergoing the evaluation in order to improve its domestic laws and practices to combat corruption. The GRECO shall invite the member to report on the measures taken to follow these recommendations.

## **Article 16 – Public Statements**

1. The Statutory Committee may issue a public statement when it believes that a member remains passive or takes insufficient action in respect of the recommendations addressed to it as regards the application of the Guiding Principles.

2. The Statutory Committee, in its composition restricted to the members who are parties to the instruments concerned, may issue a public statement when it believes that a member remains passive or takes insufficient action in respect of the recommendations addressed to it as regards the implementation of an instrument adopted in pursuance of the Programme of Action against Corruption.

3. The Statutory Committee shall inform the member concerned and provide an opportunity for the member to submit further comments before confirming its decision to issue a public statement referred to in paragraphs 1 and/or 2 above.

## **Article 17 – The GRECO’s financial resources**

1. The budget of the GRECO shall be financed through the annual compulsory contributions of its members;
2. The GRECO may receive additional voluntary contributions from its members;
3. The GRECO may also receive voluntary contributions from interested international institutions;
4. Financial resources covered by paragraph 3 above shall be subject to the authorisation of the Statutory Committee prior to their acceptance.
5. The GRECO’s assets shall be acquired and held on behalf of the Council of Europe and shall benefit as such from the privileges and immunities applicable to the Council’s assets under existing agreements.

## **Article 18 – Statutory Committee**

1. The Statutory Committee shall be composed of the representatives on the Committee of Ministers of the Member States of the Council of Europe which are also members of the GRECO and of representatives specifically designated to that effect by the other members of the GRECO.
2. The Statutory Committee shall determine every year the members’ compulsory contributions to the GRECO. The scale according to which the contributions of non-members of the Council of Europe are calculated shall be decided in agreement with the latter; as a general rule, that scale shall conform to the

criteria for the determination of the scale of contributions to the general budget of the Council of Europe.

3. The Statutory Committee shall adopt every year the GRECO's budget on expenditure relating to the implementation of the programme of activities and common secretariat expenditure.

4. The Statutory Committee shall approve every year the GRECO's annual accounts which shall be drawn up by the Secretary General of the Council of Europe in accordance with the Financial Regulations of the Council of Europe and submitted to the Statutory Committee accompanied by the report of the Board of Auditors. In order to discharge the Secretary General from responsibility for the management of the financial year in question, the Statutory Committee shall transmit to the Committee of Ministers the annual accounts, together with its approval or any comments, and the report drawn up by the Board of Auditors.

5. The Financial Regulations of the Council of Europe shall apply, *mutatis mutandis*, to the adoption and management of the budget.

## **Article 19 – Secretariat**

1. The GRECO shall be assisted by a Secretariat provided by the Secretary General of the Council of Europe.

2. The GRECO's Secretariat shall be headed by an Executive Secretary appointed by the Secretary General of the Council of Europe.

## **Article 20 – Amendments**

1. The GRECO or any of its members may propose amendments to this Statute to the Statutory Committee.
2. This Statute may be amended by Statutory Committee by unanimous decision. If the amendment has not been proposed by the GRECO, the latter shall be consulted by the Statutory Committee.

## **Article 21 – Withdrawal**

1. Subject to the applicable provisions of international legal instruments mentioned in Article 2, paragraph 2 above, any member may withdraw from the GRECO by means of a declaration addressed to the Secretary General of the Council of Europe by the Minister for Foreign Affairs or a diplomatic representative who shall be given specific powers to this effect.
2. The Secretary General shall acknowledge receipt of the declaration and inform the member concerned that it will be submitted to the Statutory Committee.
3. By analogy with Article 7 of the Statute of the Council of Europe, the withdrawal shall take effect:
  - at the end of the financial year in which it is notified, if the notification is given during the first nine months of that financial year;
  - at the end of the next financial year, if the notification is given in the last three months of the financial year.
4. In accordance with Article 18 of the Financial Regulations of the Council of Europe, the Statutory Committee shall examine

the financial consequences of the withdrawal and make the appropriate arrangements.

5. The Secretary General shall immediately inform the member concerned of the consequences for it of its withdrawal and keep the Statutory Committee informed of the outcome.

## **Information about GRECO**

### **Anti-corruption monitoring**

GRECO's objective is to improve the capacity of its 49 members to fight corruption by monitoring their compliance with Council of Europe anti-corruption standards through a dynamic process of mutual evaluation and peer pressure. It helps to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms.

The membership and functioning of GRECO are governed by its Statute and Rules of Procedure.

GRECO's Statute defines a master-type procedure which can be adapted to the different legal instruments under review. Any Council of Europe member State or any non-member State which took part in the elaboration of the enlarged partial agreement, may join by notifying the Secretary General of the Council of Europe. Moreover, any State which becomes Party to the Criminal or Civil Law Conventions on Corruption automatically accedes to GRECO and accepts its evaluation procedures.

The Statutory Committee is currently composed of representatives on the Committee of Ministers of all member States of the Council of Europe and of representatives of Belarus and the United States of America. It is competent for adopting GRECO's budget. It is also empowered to issue a public statement, e.g. if it considers that a member takes insufficient action in respect of the recommendations addressed to it.

GRECO is scrupulous in applying the principle of equal rights and obligations to all its members, whether members of the Council of Europe or not. (The only condition for full

membership in GRECO is a willingness to participate fully in the mutual evaluation procedures.)

## **Mutual evaluation**

GRECO evaluation procedures involve the collection of information through questionnaire(s), on-site country visits enabling evaluation teams to solicit further information during high-level discussions with domestic key players, and drafting of evaluation reports. These reports, which are examined and adopted by GRECO, contain recommendations to the evaluated countries in order to improve their level of compliance with the provisions under consideration. Measures taken to implement recommendations are subsequently assessed by GRECO under a separate compliance procedure.

So far GRECO has launched four evaluation rounds dealing with specific provisions of the Twenty Guiding Principles (and associated provisions of the Criminal Law Convention on Corruption). They include:

- independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption
- extent and scope of immunities
- identification, seizure and confiscation of corruption proceeds
- public administration and corruption (auditing systems, conflicts of interest)
- efficiency and transparency with regard to corruption

- prevention of legal persons being used as shields for corruption
- tax and financial legislation to counter corruption
- links between corruption, organised crime and money laundering
- the incriminations provided for in the Criminal Law Convention on Corruption, its Additional Protocol and Guiding Principle 2
- the transparency of party funding as understood by reference to the Committee of Ministers' Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (Rec(2003)4).

GRECO's Fourth Evaluation Round (launched in January 2012) deals with corruption prevention in respect of members of Parliament, judges and prosecutors:

- Ethical principles and rules of conduct
- Conflicts of interest
- Prohibition or restriction of certain activities
- Declaration of assets, income, liabilities and interests
- Enforcement of the rules regarding conflicts of interest
- Awareness.







Group of States against Corruption

Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

GRECO Secretariat  
Directorate General I – Human Rights and Rule of Law  
Information Society and Action against Crime Directorate  
Council of Europe

F-67075 Strasbourg Cedex

Tel.: + 33 (0)3 88 41 30 43

Fax + 33 (0)3 88 41 27 05

[www.coe.int/greco](http://www.coe.int/greco)

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