

Conference on “Strengthening the capacity of parliamentarians, judges and prosecutors to prevent corruption in their own ranks: Emerging trends from two years of GRECO Round IV evaluations”

Laxenburg, 10 April 2014

Dear Minister Brandstetter,

Dear Deputy Secretary General,

Dear Vice-President, Ministers,

Honourable Guests,

Let me start by conveying my sincere thanks and appreciation to the **Austrian Chairmanship of the Committee of Ministers of the Council of Europe** and the **Federal Ministry of Justice of Austria** for their initiative to organise this event.

It is a pleasure to be with you today in such beautiful surroundings thanks to our host - the **International Anti-Corruption Academy**.

Allow me also to express my gratitude to the **Government of Monaco** for their financial contribution, which has made this event possible.

Ladies and Gentlemen,

Winston Churchill once cynically said: “The best argument against democracy is a five-minute conversation with the average voter”.

Such conversations are likely to confirm the findings of Eurobarometer and many other surveys and indices, including that produced by Transparency International, that consistently point at the **elevated corruption perception levels** and the soaring public disenchantment with institutions which form the very foundations of a democracy. This disenchantment seems largely justified.

In a number of GRECO member States, **two professional groups** appear to be “in competition” for being acknowledged as the most corrupt by the public: politicians (and political parties) and members of the judiciary. The low public confidence in politicians and judges, in particular, is generated by what is perceived to be a culture of impunity, and a belief that a blind eye is turned to allegations of misuse of power, nepotism, corruption, lack of transparency, accountability and integrity, including at the very top level.

Corporatism and **detachment from the public** of such vital democratic institutions as parliaments and courts is also often perceived to be significant and may explain MPs’ and judges’ disregard of critical comments from the public and the media as well as and their reluctance to reform. Even where measures to tackle corruption are being pursued, they often fail to yield significant results or impact on citizens’ views regarding the level of misconduct in their country.

Parliaments, courts and prosecution services are institutions of paramount importance for the functioning of and trust in a democracy. They are also supposed to play a pivotal role in the prevention and fight against corruption. It is with the overall goal of strengthening the capacity of MPs, judges and prosecutors to prevent corruption within their own ranks that GRECO launched its **Fourth Evaluation Round** in January 2012.

On the one hand, this new Round represents the **continuation** of GRECO's previous undertakings in the First, Second and Third Evaluation Rounds. On the other hand, the Fourth Round is a testimony to **flexibility and innovation** in GRECO's monitoring methodology. At first glance, it might appear that this new Round is not based on any particular anti-corruption legal instrument. In reality, GRECO's evaluations are anchored in the fundamental principles and standards for credible and effective democratic institutions as endorsed by the Council of Europe and its "variable geometry" of inter-governmental and inter-parliamentary bodies. Rather than monitoring compliance with specific provisions of the Organisation's anti-corruption treaties and imposing uniform rules, our approach in the Fourth Round has been to evaluate each country purely on its own merits and to design tailor-made recommendations.

Since January 2012, a total of seventeen evaluation reports have been adopted and most of those have already been made public and are available on GRECO's web site. Although much more work lies ahead - until all forty-nine member States have been scrutinised - several important **observations** can be made at this stage.

First and foremost, despite the different status and role that MPs, judges and prosecutors play in a democratic society, our analysis of policy and regulatory frameworks demonstrates a high degree of **convergence as regards the common challenges** that these professional groups face in preventing and averting the risks of corruption. Since the problems encountered are relatively similar, the recommendations issued by GRECO in respect of each group are often comparable and propose common responses to the problems identified, while preserving the dynamics and specificities of individual country evaluations.

Secondly, the Fourth Round reports adopted so far underscore the urgency of regulating **conflicts of interest** – a most pressing societal and political concern. Clearly, MPs, judges and prosecutors can be subject to potential or actual conflicts on account of their office and professional duties, past or present. However, in most member States conflicts of interest are unregulated, and in others, legislative frameworks are so complex or frequently amended that the stability and clarity of legislation are severely undermined. Furthermore, it is not uncommon for regulations to focus on restrictions or prohibitions to the detriment of public disclosure and transparency. Concerning MPs, in particular, their susceptibility to undue influence by third parties, including lobbyists, warrants strong attention. Being a recurrent concern, the prevention and regulation of conflicts of interest are central to most of the GRECO reports adopted so far. These recommend that the rules in this area balance transparency, trust and accountability.

The lack of due attention to **preventive measures** and the underestimation of their importance is the third issue that emerges. Although some elements of a corruption prevention policy are in place in many GRECO member States, a focused policy for systematic prevention and management of

corruption risks is frequently absent. As MPs, judges and prosecutors are often exposed to a variety of risks, of which they are sometimes not even aware, credible systems should aim at early and effective prevention and not rely solely on criminal law and sanctions. For this reason, GRECO has recommended that deliberate policies for preventing and managing conflicts of interest and corruption risks be elaborated and that conflicts of interest be a matter of “soft law” rather than binding regulation. Also preventive mechanisms must be put in place to enable the notification, identification and timely resolution of actual, potential or case-by-case conflicts of interest for MPs or members of the judiciary. Whether we are talking about hard or soft law, **implementation** is deemed as vital as regulation. In respect of many of our members, efforts to close the implementation gap need to be considerably stepped up to allow additional progress to occur.

Last but not least, a multiplicity of rules and supervisory bodies is not necessarily found to be synonymous with effectiveness or efficiency. According to many GRECO reports, the lack of clear commitment to ethical conduct is marked. Mechanisms for obtaining help, advice or training are limited and the procedures for responding to ethical violations are ineffective. Evidence from a number of countries suggests, nevertheless, that an **integrity culture** can pervade public assemblies and the justice system without specific measures being imposed on their main actors. Indeed, understanding what constitutes integrity and the objectives of instilling an integrity culture – be it among MPs, judges or prosecutors - is the essence of GRECO’s Fourth Round. Through its recommendations, GRECO supports the adoption of codes of conduct. These have the advantage of laying down ethical principles and standards of conduct that may otherwise be lacking and are also designed with a view to improving the public image and reputation of the groups under review. To ensure that the texts are fully effective, GRECO recommends that such codes be complemented by training, advice and counselling. The adoption and enforcement of codes is seen as going hand in hand with guidance and policies for preventing and managing conflicts of interest and corruption risks.

Ladies and Gentlemen,

Edward Kennedy once said: “Integrity is the lifeblood of democracy. Deceit is a poison in its veins”.

The continual re-thinking of the status of MPs, judges and prosecutors and, in particular, fine-tuning it with the realities and demands of the day is a clearly discernible trend. The relevant adjustments require adherence to the highest integrity standards as well as greater transparency and public accountability.

That is precisely what GRECO has been promoting and will continue to promote thanks to its Fourth Evaluation Round!

Thank you for your attention!