Resolution (99) 5 establishing the Group of States against corruption (GRECO)

Committee of Ministers

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 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[1] 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.

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 [2] 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;

– 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.

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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.

[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).