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## **CORRUPTION AND ITS TRENDS: A POLICY CHALLENGE**

*workshop organised by the*

Directorate General of Human Rights and Rule of Law

*and the*

Parliamentary Assembly of the Council of Europe

**Venice, 2 December 2016**

**Programme and experts' contributions**

**Council of Europe Office  
Procuratie Vecchie  
S. Mark Square 180/C  
Venice, Italy**

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## Programme

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### 9:00 – 9:30      **Opening session**

- Mr Michele Nicoletti, PACE Rapporteur on *Corruption as governance regime: a barrier to institutional efficiency and progress*
- Ms Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe

Session 1:

### 9:30 – 12:00      **Corruption drivers, anti-corruption reforms and implementation challenges**

*Corruption has reached and captured public structures since the early stage of the formation of the modern State. During the State's subsequent development, some societies managed to progressively prevent and eliminate corruption by addressing those risk areas or attitudes. In other societies, corruption continued to affect public policy as well as public life in general. In countries in transition to democracy, the question arises whether some common development paths have had a crucial impact in establishing certain corruption risks. Studies and research show that the more those aspects are looked at, more observations and conclusions are drawn: common and specifically country tailored approaches can and may ensure the ability of governments to properly apply effective national anti-corruption strategies and policies.*

#### Speakers:

- Moderator: Mr Michele Nicoletti, PACE Rapporteur
- Professor Mark Knights, Professor of History, Warwick University, United Kingdom
- Ms Emanuela Ceva, Professor of public ethics and of moral and political philosophy, University of Pavia, Italy
- Ms Monika Bauhr, Associate Professor at the Quality of Government Institute Department of Political Science, Göteborg University
- Discussion and Conclusions

### 12:00 – 13:30      **Lunch** offered by the PACE

Session 2:

### 13:30 – 15:30      **Good practices: Anti-corruption authorities**

*Even though there are common standards for the effective functioning of anti-corruption structures (such as independence from undue interference, specialisation in corruption and availability of sufficient resources and powers to meet their challenging tasks), country specific situations and conjectural political environment resulted in a variety and diversity of models adopted and competencies attributed to such bodies. Models which have proven to be successful in a specific country would not necessarily be equally effective in a different cultural or political environment. However, a comparative look at common standards and key features of specialised anti-corruption institutions would help identify the new challenges and means to strengthen their institutional capacities.*

#### Speakers:

- Moderator: Mr Ivan Koedjnikov, Head of Action against Crime Department, DGI-Council of Europe
- Professor Nicoletta Parisi, Anti-Corruption National Authority (ANAC) and member of the Italian delegation to GRECO
- Prof. Dr. Alina Mungiu-Pippidi, Director of European Research Centre for Anti-Corruption and State-Building (ERCAS)

Session 3:

**15:45 – 17:30      Current European trends in the fight against corruption  
(Asset recovery and beneficial ownership)**

- Moderator: Mr Ivan Koedjikov, Head of Action against Crime Department, DGI-Council of Europe
- Mr Quentin Reed, PHD, Anti-corruption Consultant, Prague, Czech Republic
- Mr Yves Moiny, Deputy Prosecutor General in the Court of Appeals of Brussels

**17:30 – 18:00      Concluding remarks**

- Mr Michele Nicoletti, PACE Rapporteur on *Corruption as governance regime: a barrier to institutional efficiency and progress*
- Ms Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe

## Opening session

Address by Mr Michele Nicoletti, PACE Rapporteur on *Corruption as governance regime: a barrier to institutional efficiency and progress*

I would like to thank the Deputy Secretary General of the Council of Europe and Action Against Crime Department for their support in organising this workshop and their interest in a report which I am preparing for the Parliamentary Assembly entitled “Corruption as governance regime: a barrier to institutional efficiency and progress”.

I would also like to thank the academic experts and practitioners whose contribution will feed into my report and I am especially interested in learning more about recent trends and corruption drivers in different Council of Europe member States. My report will attempt to identify the main challenges in fighting corruption in different social, economic and cultural environments, mainly from a political point of view and beyond technical tools and procedures that can be easily misused.

The report will also focus on the impact of the building of the modern State on corruption in a heterogeneous Europe. The underlining assumption is that the problem of corruption in some Eastern and Central European countries cannot be solved simply by applying anti-corruption policies and structures that work in Western, and especially Nordic countries, which traditionally come in at the top of various anti-corruption ratings. I have identified 3 case studies: Ukraine, which I visited in January 2016; The Netherlands, which I visited on 8 November and Spain which I plan to visit in March 2017.

Research on the history of corruption, the formation of modern State structures as well as current policies and institutions to fight against corruption should affect our understanding of the phenomenon. Why in some contexts corruption becomes “physiological” and not a simple “pathology” of an otherwise healthy democratic system? Why in some societies people tend to accept and adopt corrupt practices?

We should also take into account the role of international bodies, such as the Council of Europe Group of States against Corruption (GRECO), the Organisation for Economic Co-operation and Development (OECD), and national anti-corruption authorities as well as educational strategies, which can be further promoted by all governments to foster corruption-resilient societies.

In my view, we should also discuss new areas of corruption, for instance in migration management centres or with respect to environmental crimes, and support a meaningful dialogue between civil society and institutions to step up the fight against old and new forms of corruption. Council of Europe networks of policy-makers, scholars, students, intellectuals, NGOs and human rights defenders already exist in some areas, such as in combatting violence against women and protecting children rights. A similar network could also be set up within the Council of Europe to mobilise all actors in the fight against corruption.

## What can Britain's history tell us about corruption and anti-corruption?

Mr Mark Knights, University of Warwick

Britain is today seen, according to corruption perception indices, as a country that is relatively un-corrupt. But it has a long history of struggling with corruption, and anti-corruption strategies evolved over centuries rather than years or decades.<sup>1</sup> Such strategies were often shaped by peculiarly British factors – Protestant reformation in the sixteenth century, two revolutions in the seventeenth century, and the expansion of State and Empire in the eighteenth century - suggesting that each State has to take measures which are adapted to its national history, culture and mind-set. Corruption and anti-corruption measures have historical roots that need to be understood.

Corruption in pre-modern Britain did not have a universal and static meaning. Instead, the concept of corruption changed its meaning over time, as, at different moments, emphasis was put on different types of corruption. For example, in sixteenth century Protestant Britain, 'corruption' chiefly meant original sin and also referred to the theological and institutional corruption of the Catholic Church. By the early nineteenth century, that meaning was still valid, but there was much more concern about the corruption of officeholders or the corrosion of the political system. Such shifts could also mean that some things seen as problematic at one moment could be seen as legitimate solutions in another. For example, in the sixteenth and seventeenth centuries, 'self-interest' was seen (by both a religious and a more secular republican tradition) as the root of corruption; in the late eighteenth and nineteenth centuries, self-interest was seen as far less dangerous or even beneficial and subsequently came to be seen as the invisible regulator of the free market that could undermine corruption. The understanding of what corruption was, or why and how it posed the greatest danger, thus changed over time; and what constituted corrupt behaviour was also contested, with rival versions at stake over time.

Understanding corruption in its national cultural context is made all the more important by the way in which many corrupt practices were embedded in the social practices, customs and norms of the time and place. Britain's struggle with corruption was part of a larger story about notions of friendship, kinship, patronage and gift-giving, since 'bribes' were defended as 'gifts', 'presents' and 'acknowledgements' from a friend or someone who 'owed' thanks or who had incurred an obligation. In seventeenth century Britain, the naval administrator and diarist Samuel Pepys argued in these terms, redefining what some considered "corrupt bribes" as "presents from friends", even if those "friends" were individuals seeking government contracts to supply the navy. If corruption is therefore tied closely to the socio-cultural character of a country, we have to recognise that such attitudes and values change slowly and that such a process reflects an extensive debate that goes far beyond the institutions and administration of public office.

Even in terms of institutional reform, moments of apparent transformation – in Britain in the 1530s, 1640/50s, 1780-1830s – were built on earlier innovations, suggestions, debates, scandals and campaigns. Moreover, 'progress' was not consistent and could reverse. Thus, a parliamentary public accounts committee, which had been introduced in the seventeenth century, was actually abandoned for much of the eighteenth century. Anti-corruption could also require many attempts to achieve its aims, spread out over a long period. The sale of some offices was first banned by law in Britain in 1389; but venality required further legislation in 1555 and in 1809, and commissions in the army were sold up until 1871.

Thus rather than seeing anti-corruption as a linear process leading to a State in which corruption has been eradicated, we might instead think of anti-corruption as a wave-like process that continually has to respond to new forms of corruption as they emerge. Anti-corruption is thus a process not an end-point. Even in the nineteenth century, Britain was not free from corruption and, despite the favourable perception indices today, Britain's Brexit may in part be ascribable to a popular, expansive and very loose notion of corruption: that the system was only working for self-interested groups who were profiting at the expense of the people as a whole. Anti-corruption, like corruption, comes in many forms and can also be highly political.

Some remedies which might seem self-evident from our modern perspective were also double-edged swords in the past. Thus, before the representative system was overhauled in the nineteenth century, elections and

<sup>1</sup> This analysis is based on an AHRC-funded project examining the history of corruption and anti-corruption in Britain and its colonies from the sixteenth century reformation to the nineteenth century reform movements. This will result in a book to be published by Oxford University Press. Some preliminary findings are summarised in a report for Transparency International which is free to download at <http://www.transparency.org.uk/publications/old-corruption-what-british-history-can-tell-us-about-corruption-today/>.

political parties were seen as an important driver of corruption, rather than mechanisms restraining it. The press, which could expose corruption, could also pedal justifications for corrupt systems and the independence of the press could be bought off by the government. Whistle-blowers, who could expose corruption and offer solutions, were systematically denigrated, threatened and thwarted. There was also a paradox at the heart of the pre-modern State. Its expansion created new opportunities for corrupt behaviour; but such expansion also created greater powers and regulatory frameworks that curtailed corruption. The growth of the State was both part of the problem and the solution.

Administrative reform worked best when non-political commissions examining every branch of governance were given political backing. It also seems to have coincided in the British case with waves of 'moral reform' which sought to purify (often in religious terms, though not solely in that sense) both the elite and the nation as a whole. Institutional reform was thus seen alongside a wider process of self-scrutiny at personal and national levels. Some of that wider public debate and process of self-scrutiny took place around corruption scandals, which generated a lot of interest and discussion, as well as popular pressure for reform. But scandals also had the potential to – and frequently did - trigger *ad hominem* attacks that failed to follow through with any systemic reform.

Anti-corruption is a difficult balancing act. One of the most difficult challenges is to find a way of enabling discretion in office-holders that allowed them to be efficient, innovative and flexible in their work and at the same time restraining such discretion through frameworks that required adherence to rigid rules and protocols that could stifle initiative, impede the business of governance and even create new ways of extracting corrupt payments. Such balancing acts require constant calibration both by the State and the people.

Much of the scholarly literature on corruption has, for understandable reasons, focused on governmental, administrative and institutional corruption. However, we need more academic and policy attention to be paid to the ways in which corruption was, and is, embedded in social and cultural values, which change slowly but provide the essential environment in which the institutional reforms take place.

## Models of political corruption

Ms Emanuela Ceva, University of Pavia

The corruption of public officials and institutions (hereafter “political corruption”) is generally understood as “pathology” of the public order. Therefore, to understand what political corruption is (*diagnosis*) and to develop appropriate anticorruption strategies (*therapy*), we need to start from a clear understanding of what a healthy public order should be and see corruption as a deviation from the ideal.

Two main ideals of the public order that ground the democratic form of government across Europe are:

- (1) Republicanism,
- (2) Liberalism.

### (1) Republicanism

The public order is justified insofar as it realises the political nature of citizens and the purpose of political institutions is to promote the common good and citizens’ civic virtues.

Two understandings of political corruption emerge in history:

- **Classical Republicanism** (Machiavelli): political corruption occurs when private interests intrude in the pursuit of the common good and hinder the civic virtues of citizens and public officials. Corruption is therefore both an individual and an institutional flaw.

Anticorruption strategies include institutional reforms and civic education.

This approach can be very demanding (appeal to virtues) and presupposes an agreement on what the common good is, which is often controversial in pluralist societies.

- **Neo-Republicanism** (Lawrence Lessig and Dennis Thompson): political corruption is understood in terms of “institutional corruption”, i.e. the corruption of a system. Institutional corruption occurs when institutions are entangled in wrong dependencies that expose them to the domination from powers other than those on which they should depend, e.g. private financing of electoral campaigns in the USA. Institutional corruption does not necessarily involve unlawful exchanges, but the exposure of institutions to an inappropriate influence. This influence is problematic to the extent that it makes an institution unable to fulfil its purpose and weakens citizens’ trust in it.

Anticorruption strategies include institutional reforms.

This approach can have a narrow focus where only cases of systemic corruption matter; radical anticorruption measures are often needed.

### (2) Liberalism

The public order offers an impartial framework within which citizens can cooperatively pursue their individual life-plans as political equals.

Two understandings of political corruption emerge:

- **Distributive liberalism**: justice concerns the impartial distribution of the costs and benefits of social co-operation (John Rawls). Political corruption occurs when a partial distribution of these costs and benefits undermines someone’s subjective rights and opportunities.

Anticorruption strategies include individual punishment and compensation for violations of individual rights.

A consequentialist approach is exposed to contingencies: sometimes corruption may in fact end up enhancing distributive justice (e.g. political corruption as grease).

- **Relational liberalism:** justice concerns also the way in which citizens treat each other during their co-operative interactions (Elizabeth Anderson). Political corruption occurs when public officials abuse their entrusted power for the pursuit of a surreptitious agenda and, therefore, alter the logic of mutual accountability that ought to govern the relations between political agents (Emanuela Ceva). A surreptitious agenda is one that cannot be publicly justified as a legitimate reason for public action (for example, clientelism, i.e. patron/client relations supplant relations of mutual accountability). Political corruption is unjust as a practice, generally and in itself, independently of whether any specific instance of corruption happens to have negative consequences in specific circumstances.

Anticorruption strategies include policies and best practices to unveil corrupt relations and “repair” them, e.g. regulation of whistleblowing; educational policies revolving around the idea of mutual accountability.

Therefore, if political corruption is an injustice, these educational policies are not an act of goodwill but a duty of institutions.



## Containing Corruption

Ms Monika Bauhr, The Quality of Government (QoG) - Scientific Coordinator and Principal Investigator ANTICORRP

The analysis revolves around three main issues:

1. Reduced Corruption: recent research results that are of particular relevance for European countries;
2. How can corruption be contained? Overview of different anticorruption measures;
3. What is the problem? How both the scale of the corruption problem and the balance between different forms of corruption influence the effectiveness of anticorruption reforms.

### 1. *Reduced Corruption*

Research shows several potential gains from reduced corruption including increased political legitimacy (which is important for the long term support for democratic institutions), less organised crime, drugs, weapons and human trafficking, increased support for foreign aid and redistribution, decreased health and safety risks, reduced socio-economic disparities and inequality among European regions (“smart, sustainable, and inclusive growth”), more small and medium sized businesses.

However, the quality of government varies greatly between European regions (see Charron et al 2015). A European Quality of Government indicator (EQI) was based on a survey of 85 000 European respondents in 24 countries and 206 regions, with 16 survey questions on citizens’ perceptions of and experiences with corruption, and the perceived quality of public services and to what degree these were impartially delivered. Regional differences in quality of government (QoG) can at times be greater than the differences in QoG across countries. For example, the difference between Italy’s highest (Bolzano) and lowest (Campania) QoG regions is greater than the gap between Germany and Greece or the gap between Denmark and Portugal.

### 2. *How can corruption be contained?*

The factors rather consistently associated with reduced corruption are as follows: gender equality, universal good quality education, meritocratic recruitment and separation of careers, taxation, transparency and audit.

The more corrupt the State, the more laws: legal frameworks are not necessarily good indicators of the quality of government or transparency in a country. QoG expert survey measure of the likelihood of exposure of abuses of power has virtually no association with the presence of freedom of information laws. The reason corrupt countries pass more laws is often due to international pressure, however those laws are not consistently implemented.

### 3. *What is the problem?*

The importance of the corruption context and the balance between different forms of corruption must be carefully assessed to understand the effectiveness of anticorruption reforms. The scale of the corruption problem in any particular society matters and corruption should not be considered as an isolated problem, but as part of different types of problems. This may explain why there is a rather weak link between democracy and corruption in studies using aggregate measures of both democracy and corruption.

Research shows a presumed virtuous cycle of transparency reforms.<sup>2</sup> Increased awareness causes public indignation and mobilisation, leading to pressure for accountability and reforms, which in turn lead to abuses being redressed and improved quality of government. However, in some cases this model may fail. Transparency may lead to demobilisation in highly corrupt contexts. Therefore, increased transparency is important, but it is more effective when implemented in combination with other accountability reforms, especially in highly corrupt contexts.

<sup>2</sup> Bauhr, Monika, and Marcia Grimes. 2014. “Indignation or Resignation: The Implications of Transparency for Societal Accountability.” *Governance* 27 (2): 291–320. doi:10.1111/gove.12033.

The type of corruption also matters for the effectiveness of anticorruption reforms. Some of the most influential studies seeking to evaluate the effectiveness of anticorruption efforts use aggregate measures of corruption (the scale of the corruption problem rather than the type of corruption). This may lead to false or insufficient inferences about the effectiveness of anticorruption interventions.

Distinguishing between different types of corruption is key to understanding when and why citizens engage against corruption, and anti-corruption measures need to be tailored to the specific type of corruption.<sup>3</sup> A distinction must be made between “need” and “greed” corruption. The former is defined as corruption that is needed to receive a fair treatment and the latter as corruption to gain special illicit advantages. Greed corruption is more “sticky” and can coexist with (relatively) well working institutions for accountability, and also tend to persist in evolved democracies. “Insiders” of greed corruption are more likely to lose their privileges if corruption is contained, compared to those that are involved in need corruption. Therefore, insiders or perpetrators of greed corruption are less likely to engage against corruption even in the face of widespread public engagement (they are “free riders” rather than “conditional cooperators”). Several factors also make it difficult for outsiders or the wider public to effectively mobilise against greed corruption. Greed corruption is often collusive and secretive and only occasionally exposed. Negative effects of greed corruption occur at a substantial time lag. These factors explain the difficulties of effective outsider mobilisation against greed corruption.

In sum, the negative impact of corruption on human well-being is important; within a country, (regional) variation in QoG can be very significant; gender equality, taxation, universal good quality education, meritocratic recruitment, separation of careers, transparency and audit can reduce corruption; both the scale and the type of corruption are of central importance for collective action against corruption and the effectiveness of anticorruption reforms.

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<sup>3</sup> Bauhr, Monika. 2016. “Need or Greed? Conditions for Collective Action against Corruption.” *Governance*, August, n/a-n/a. doi:10.1111/gove.12232.

## Current European trends in the fight against corruption (beneficial ownership)

Mr Quentin Reed, Anti-corruption and Good Governance Consultant

The presentation explained the concept of ‘beneficial ownership’ (BO) of legal entities and arrangements, its relevance to the fight against corruption and the state of play regarding international standards on transparency of BO and their implementation.

The author stressed the open-ended nature of the concept of a beneficial owner as not necessarily the ultimate owner of a legal entity (the most common understanding and the one that dominates international obligations) but also as just the beneficiary of a legal entity, with the latter raising the possibility that such ownership may not always be legally definable.

The identification of beneficial owners is a crucial component of the fight against corruption, both from a law enforcement perspective (for example in asset recovery, for which the presentation provided some case examples) but also and perhaps more importantly in ensuring a general environment of transparency in corporate and public sector dealings, including for example public procurement and taxation.

The presentation identified key regulatory challenges. Some of these are practical (e.g. whether private sector obliged entities or State regulators are up to the challenge of monitoring BO) but there is also a more basic challenge - the risk that regulation will lead to ever more complex techniques to hide BO. For this reason as well, public access to BO is a crucial condition for regulation of BO to function effectively as a tool to prevent corruption. Progress in the implementation by countries of obligations under international instruments (FATF and the EU Anti-Money Laundering Directive in particular) has been considerable, although efforts to ensure full transparency have been blocked by secrecy jurisdictions.

Mr Yves Moiny, Deputy Prosecutor General in the Court of Appeals of Brussels  
Financial and Economic Section

Public information about who has ultimate control and ownership of a company (“the beneficial owner”) is vital to fight corruption effectively. In recent years commitments have been made at the highest level to tackle the misuse of these corporate vehicles and trusts, and to increase transparency around those who ultimately own, control or are benefitting from them.

A beneficial owner is the real person who ultimately owns controls or benefits from a company or trust fund and the income it generates. With the exception of the UK, beneficial ownership is defined within the context of anti-money laundering obligations. The beneficial owner is always understood as a natural person. Except the UK, current laws and regulations do not require legal entities to maintain information on beneficial ownership. Furthermore, there are few countries (or the only one we can say) like Italy, where there is a *registry* authority mandated to verify the information provided by companies.

However, from an operational and procedure point of view, a public, central (unified) register could be considered the most effective and practical way to review and record information on beneficial ownership and thus facilitate access to competent authorities.

Nowadays, trusts are the second most used vehicle for corruption, as used by companies. The 4<sup>th</sup> EU Anti-money Laundering Directive requires the registration of beneficial ownership information only in relation to trusts with a “tax consequence”.

Financial institutions and Designated Non-financial Business Professions (DNFBP’s) should be required by law to identify the beneficial owners of their customers. Since early summer 2016, the European Commission and the European Union are looking at ways of reinforcing EU rules countering money laundering and terrorist financing by harnessing the link between corruption, tax avoidance and tax evasion. However, challenges remain at large, including with regards to interpretation of certain issues by governments themselves.

## **Good practices: Anti-corruption authorities**

### **Ms Nicoletta Parisi, Member of the Italian Anticorruption Authority (ANAC)**

The Italian Anticorruption Authority (ANAC) was created with the aim to implement article 6 of the United Nations Convention against Corruption (UNCAC), thus entrusting the task of preventing corruption to one single and independent institution, the ANAC.

The ANAC's authority stands for the protection of legality in the public sector, its transparency, and the supervision on public contracts and at best control a highly economic and strategic sector, which could be exposed to the risk of illegality and mal-administration. Basically, the ANAC has regulatory, supervisory, advisory, inspection and sanctioning powers; in addition the ANAC can perform monitoring activities, propose changes in the legislation and also be engaged at the international level through its participation to different fora on anticorruption issues.

In pursuing its tasks, the ANAC developed some good practices, especially those concerning "collaborative supervision" (now provided in article 213, para. 3, lett. h), of the new Code of Public Contracts), the "extraordinary and temporary management of contractors" (resulted from the EXPO 2015 experience and now settled in a general way in Art. 32 of Law No. 114/2014); the pre-litigation procedure (now foreseen in Art. 211 of the Code cit.), the adoption of guidelines, standard tenders, standard contracts and other instruments of flexible regulation (Art. 213 of the Code cit.).

However, the entire ANAC and related system institutions still do face challenges: those include the sheer bureaucratic attitude in implementing plans and strategies for prevention of corruption and increase of transparency; difficulties in incorporating whistleblowing in the Italian legal system; large size of administration to be able to supervise and monitor over public administration duties and tasks while implementing the anti-corruption strategy.

The fight against corruption cannot be performed in isolation, as the multiple international efforts in the field demonstrate. Anti-corruption bodies need coordination and harmonised legislation in order to face the transnational widespread of corruption. To this end, Italy considers yet important that from the European point of view, efforts continue to reach the following outputs:

- Harmonising national and regional standards and rules as well as their unified and adopted application in each domestic level through inter-cooperative and institutionalised fora;
- Establishment of a network of national authorities aimed at: settling cooperation modalities and be opened for working groups for the implementation of future developments of their functions; elaborating common positions and standards that would derive from practical examples and national challenges
- the proposal to institute - inside the context of the Council of Europe or in a more integrated context, i.e. the European Union – a European authority for the prevention of corruption as an integrated administrative system (settled at two different levels, European and national ones).

## Closing Session

by Deputy Secretary General of the Council of Europe Gabriela Battaini-Dragoni

Thank all the participants for contributing to this small but very important technical workshop which has two main objectives:

- i. review and discuss the link between the quality of governance and the rule of law, on the one hand; and the current trends of corruption, on the other;
- ii. review the domestic anti-corruption framework in a broad sample of “good example” countries, including main parameters, recent developments and existing gaps.

Considering these two aspects in an interrelated fashion will feed into the coming important PACE report on corruption and contribute to a better understanding of the good governance challenges recent corruption trends pose to the Council of Europe member States and hopefully, identify means to address them.

I firmly believe that the Council of Europe can make a difference, through the PACE political drive (PACE Anti-corruption platform), the GRECO monitoring and the Cooperation against Economic Crime.

This is the first time that a small group of experts along with specialised services of the Secretariat have come together to brainstorm on issues which are the focus of the attention for those such as GRECO, MONEYVAL, FATF, G20, EU Council and Commission. That is why we all take a special interest in this meeting.

GRECO – the Council of Europe anti-corruption monitoring body covering the 47 CoE member States, plus Belarus and the US – is concluding its 4<sup>th</sup> evaluation round focusing on the “Prevention of corruption in respect of members of parliament, judges and prosecutors”. I can already share with you a couple of their 2016 findings of the main European trends, challenges and good practices in States concerning the 4<sup>th</sup> evaluation round, as such:

- Preventive anti-corruption measures are not always considered with the attention and importance they deserve. Countries tend to over-rely on the repressive aspects of fighting corruption, too often underestimating the strength and effectiveness of preventive mechanisms which are either too weak or totally absent. In addition, a number of issues are not sufficiently addressed /discussed consistently across countries, e.g. assets held abroad or interests held indirectly through an intermediary structure.
- Preventive policies have real benefits. They (a) ensure objective impartiality and integrity and boost trust in political and other institutions performing core functions of the State (b) deal with problematic situations before they become a criminal offence and (c) help law enforcement/prosecution dealing with a criminal case to establish a criminal intent/offence.
- Indicators of reforms and compliance with GRECO recommendations are increasingly slow or less tangible. While the implementation rate of GRECO’s recommendations for the first two rounds had exceeded 98%, this number is lower for the third (political financing) and fourth (members of parliament, judges and prosecutors) evaluation rounds. The increasing complexity of the issues discussed and the fact that many governments have left the initiative to other actors may explain a slower than expected implementation pace.

GRECO’s new, 5<sup>th</sup> evaluation cycle will start in mid-2017. It will be focusing on “Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies”. Thus, by extending its monitoring to two pillars of the executive branch of State power: directing its attention to central government (top executive functions) and law enforcement authorities which form a cornerstone of the fight against corruption.

Our co-operation programmes continue to support countries in undertaking reforms that originate from GRECO or Moneyval recommendations, EU enlargement and neighbourhood policy requirements and are in line with their own political and policy reform agenda. Nevertheless we all are witnesses that corruption, money-laundering, financing of terrorism and use of the proceeds of crime have proven to be very resilient.

The nexus between anti-corruption (AC) measures, anti-money laundering (AML), and asset recovery (AR) has become evident. Over the past two decades, international treaty law, including UN and Council of Europe conventions has codified standards, provided a basis for the co-operation between authorities, and resulted in numerous bilateral and multilateral memoranda of understanding (MOUs). However, in practice the approaches to trans-border co-operation vary largely.

The Council of Europe has accumulated considerable experience in addressing this nexus to prevent and combat economic and organised crime, with a specific caveat on increasing the impact of AC, AML and AR measures while strengthening international and regional co-operation and promoting good practices to member and non-member States. A lesson learned is that improved co-operation depends on the maintaining of consistent contact, exchange of information and sharing of practices while acknowledging the differences amongst countries.

Across and beyond Europe, populist parties are on the rise because of, amongst other reasons, the increased migration pressure and terrorism threats. In some countries, this leads to grand coalitions between left, centre and right – as history has shown, in time this is likely to lead to more frustration with governance seen as corrupt (“they are all the same” syndrome) and a further rise of populism.

There is clear need for a new push, a kind of “wake-up call” for better compliance with standards and tangible results in combating corruption, money-laundering and financing of terrorism, and in recovering criminal assets. The main problem is that any such effort will be an uphill struggle because it has to be agreed upon by all CoE member States – in other words, the political elites will have to agree to measures with uncomfortable and uncertain consequences for themselves.

I wish to thank you for the many new ideas and the good lessons learned today. I will continue to support initiatives such as this meeting as they can take all of us ahead.