

**Speaking notes for Mr. Guy De Vel,  
Director of Legal Affairs,  
Council of Europe**

To be delivered at the « Global Forum on fighting corruption :  
safeguarding integrity among Justice and Security officials »

Hosted by Vice-President Al Gore  
Washington D.C., February 24-26 1999

Session on « Global and Regional Anti-corruption frameworks »  
Thursday 25 February 1999, 3.30-6.30 p.m.

---

Ladies and Gentlemen,

I feel both honoured and grateful for having been invited by ~~the~~ <sup>Vice-President</sup> ~~United States Government~~ <sup>Al Gore</sup> to participate in this impressive Global Forum on fighting corruption and to share this panel with such eminent personalities.

At the same time I feel proud, Mr Chairman, to represent here the Secretary General of the Council of Europe, an organisation which, for the last five years, has been extremely active in the fight against corruption. Consequently, I am in a position to refer here and today to results and realities and not only intentions and projects. To specific achievements, which, to my mind, justify retrospectively the Council of Europe's deep involvement since 1994 in the common international effort against corruption and explain our strong confidence in the ability of our organisation to remain a reference in this field.

I hope you will allow me, Mr Chairman, to introduce, in a few words, the Council of Europe to you. We are the oldest - should I say the most experienced ?- organisation of European co-operation. In 1999 the Council of Europe commemorates its 50<sup>th</sup> Anniversary, as it was set up in London in 1949, following an initiative by Sir Winston Churchill. Our headquarters were established in Strasbourg, on the banks of the Rhin river, as a symbol of Franco-German reconciliation after World War II. Since then, the Council of Europe has been actively promoting and

defending the principles and values enshrined in its Statute : Democracy, rule of law, individual rights and freedoms and social progress. For many years the Warsaw pact considered us the political/ideological branch of NATO. Paradoxically, after the fall of the Berlin Wall the Council of Europe was the first organisation that former Communist countries, , including Russia, applied to join. Thus, we have become a truly paneuropean organisation.

The Council of Europe is relatively well known as a human rights's protecting organisation, mainly because of the judgements of our European Court of Human Rights, which is competent to examine complaints of violations committed within the jurisdiction of any Council of Europe member State. However, and this is perhaps less known to the general public, our organisation has been also extremely dynamic in the legal field. More than 175 international treaties and agreements and a countless number of recommendations and other pieces of soft law, have been concluded within the Council of Europe.

Many of these instruments deal with international co-operation in legal matters. I should like to stress, in particular, that the Council of Europe has developed a comprehensive network of legal instruments that form the basis of today's European co-operation against crime : extradition, mutual legal assistance, execution of judgements, transfer of prisoners...Many of these treaties are open to non-member States. Thus, for instance, the U.S is a Contracting Party to Convention n° 112 on the transfer of prisoners.

In 1990, the Council of Europe succeeded in adopting the Convention on the laundering, search, seizure and confiscation of proceeds from crime, which is generally considered as the most wide-ranging international instrument against money laundering. The involvement of the U.S Government in the elaboration of this treaty was outstanding. We are also extremely satisfied of the tight U.S. involvement in the elaboration of the draft Convention against cybercrime, a pioneering treaty currently being negotiated in the Council of Europe, which is likely to be ready for adoption at the beginning of the forthcoming millenium.

But let's go back to corruption.

Although it has always been present in the history of humanity, at the beginning of the 90s corruption virtually exploded across the newspaper columns and law reports all over the world, irrespective of economic or

political regimes. In our continent, countries of Western, Central and Eastern Europe were literally shaken by huge corruption scandals. For the Council of Europe it was only a natural continuation of its past record in international co-operation in criminal matters, and of its recent experience in combating money laundering, to address this serious and complex issue. As a matter of fact, the Council of Europe reacted vigorously against widespread corruption because it viewed it as a threat to all the basic principles our organisation stands for. Fighting corruption internationally seemed to us a means of defending the stability of democratic institutions, the rule of law, human rights and social progress.

Moreover, corruption is a subject well suited for international co-operation: it is a problem shared by most, if not all, our member States. Moreover, the most serious forms of corruption invariably contain transnational elements. Finally, if all countries are threatened by corruption, it appeared evident that our new member States, countries in transition to democracy and market economy, were even more vulnerable to it, their reforms being undermined and their new democratic institutions destabilised by corruption phenomena, often linked to organised criminal groups.

Five events have marked the development of the Council of Europe's activities against corruption: the Malta Conference (1994), the setting up of the Multidisciplinary Group on Corruption (1995), the adoption of the Programme of Action against Corruption (PAC – 1996), the Prague Conference (1997) and the 2<sup>nd</sup> Summit of the Heads of State and Government of the member States of the Council of Europe (1997). The launching of the Joint Council of Europe / European Commission Programme known as “Octopus” for combating organised crime and corruption in States in transition is an important complementary element of our strategy.

But I shall not bother you with details about these events. Let me simply underline that, following the 2<sup>nd</sup> Summit of Heads of State and Government, the Council of Europe initiative against corruption received considerable political impulse and became one of the first priorities for our organisation and member States.

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

- a) **Multidisciplinaryity.** Corruption is a prism with many sides and requires action of different types. Thus, the

Programme of Action, the 20 Guiding Principles for the fight against corruption and the instruments prepared integrate this element of multidisciplinary.

- b) **Monitoring.** The credibility of instruments against corruption depends upon an appropriate system for evaluating compliance with the obligations arising therefrom. All Council of Europe instruments are linked to the monitoring mechanism provided by the Agreement known as GRECO –Group of States against Corruption.
- c) **Ambition.** Corruption is a serious and complex problem. It arises in citizens profound feelings of distrust, unfairness and inequality, undermining their faith in the foundations of society, provoking a waste of scarce public resources and increasing the cost of public services... Organised criminal groups resort to it to infiltrate political institutions and the legal economy, to avoid law-enforcement and to launder dirty money. Our efforts are directed, therefore, to raising public life standards, without leaving gaps through which corrupt practices may survive or reappear. The Council of Europe seeks to tackle all forms of corrupt behaviour in order to preserve the integrity and impartiality of public administration and the social fabric.
- d) **Comprehensiveness.** We are developing an integrated set of instruments of different types, putting at the disposal of our members –and of those participating in our initiative- a full battery of international law measures against corruption. Each instrument complements the others with a view to building up a net of standards that will render corruption more difficult and costly.
- e) **Flexibility.** Countries will be able to choose the instrument to sign first or to apply soft law, under appropriate monitoring, as a first step. A system of reservations allows them to accede to instruments whilst postponing acceptance of some commitments, giving them time to adapt to the new and high standards set by the instruments. Although there is one single monitoring mechanism, the GRECO, its procedures are adaptable to the instrument reviewed in each case. In addition

GRECO will imply no heavy and cumbersome bureaucracy since it has been modelled in accordance with FATF methods: mutual evaluation and peer-pressure.

I should like to refer in some details, Mr Chairman, to some of the specific achievements obtained by the Council of Europe in the implementation of its Programme of Action against Corruption. I shall briefly mention also, before concluding, what is in the pipeline for the months to come.

a) *The 20 Guiding principles for the fight against corruption*

Following intensive work to define a *common framework for national strategies against corruption*, the Committee of Ministers, at its 101st Session at Ministerial level, adopted on 6 November 1997, Resolution (97) 24 containing the *20 Guiding Principles* for the fight against corruption. It enumerates the areas in which State action is necessary for a comprehensive and efficient strategy against corruption. The Principles deal, *inter alia*, with prevention of corruption, promotion of ethical behaviour, immunities, media freedom, transparency in decision-making, auditing, codes of conduct for elected representatives, financing of political parties and election campaigns...

Although the Guiding Principles are not, as such, a binding legal text, they carry the political weight of their masters since their elaboration was ordered by the Heads of State and Government at their Summit held in October 1997, order duly executed, shortly afterwards, by the Ministers of Foreign Affairs. Moreover, GRECO is entrusted with the task of monitoring their application, as we shall see.

Of course, this is a Council of Europe instrument and only its member States are bound to apply these Principles. However, non-member States willing to join GRECO are requested to make a specific declaration committing themselves to apply the Guiding Principles.

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

On 5 May 1998, the Committee of Ministers of the Council of Europe, at its 102<sup>nd</sup> Ministerial Session adopted Resolution (98)7 authorising the setting up of the "Group of States against Corruption" – GRECO", in the form of a Partial and Enlarged Agreement.

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

GRECO is opened to the participation of member States and non-member States of the Council of Europe on an equal footing. Indeed, for the international fight against corruption to be effective, there is a need for as many States as possible to be committed against this blight of society. Some non European countries, like the US, Canada and Japan, were extremely active in the drafting of the GRECO Agreement as recognised by its Preamble and by the privileged way offered to them to become members of GRECO and participate in it on an "equal footing" with Council of Europe member-States. *I launch a strong appeal to these countries and especially to the United States, to join GRECO immediately when it will start working.*

GRECO is aimed at providing a flexible, dynamic and efficient mechanism to ensure compliance with undertakings in the field of corruption. It defines a master-type procedure, which can be adapted to the different instruments under review. Becoming a Party to the Criminal law Convention or other instruments will entail, automatically, the obligation to participate in GRECO, and to accept monitoring procedures defined under the GRECO system.

In order to carry out its tasks, GRECO will proceed to evaluation procedures in respect of each of its members. For each evaluation round, it will start by selecting specific provisions on which the evaluation procedure will be based. It will visit the countries concerned, for the purpose of seeking information concerning its law or practice. After receiving comments by the member undergoing the evaluation, GRECO will adopt a report stating to which extent that country is fulfilling its international undertakings. GRECO may address specific recommendations to member countries with a view to improving its domestic laws and practice. A public statement will be issued when a member remains passive or takes insufficient action in respect of the recommendations addressed to it by GRECO.

GRECO will become operational as soon as 14 States notify their will to join. For the time being, 11 countries have already done so and it is expected that the first Session of GRECO will take place shortly, maybe during the celebrations to commemorate the Council of Europe

50<sup>th</sup> Anniversary, in Budapest in May this year. We hope and expect GRECO to become rapidly a permanent forum, a pole of reference, for debating and improving, through mutual evaluation and peer-pressure, anti-corruption policies and measures throughout Europe and beyond

c) *The Criminal Law Convention on Corruption*

This Convention was adopted in November 1998 and opened for signature last month. On the very day of the opening, 27 January 1999, 21 States, several of which represented at the Minister level, already signed. *It is encouraging to note that amongst the countries who signed, a great number are*

This Convention is, certainly, one of the most comprehensive treaties in this field. It contains an obligation to criminalise, on the basis of a set of common elements, a large range of corruption offences, including active and passive corruption of national, foreign and international public officials, active and passive corruption of members of national, international and supranational parliaments or assemblies, active and passive corruption of judges and staff of domestic, international or supranational courts, active and passive private corruption, active and passive trading in influence involving national and foreign public officials, laundering of corruption proceeds, corruption in auditing. *Central and Eastern European States*

*including judges and prosecutors*

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

It is important to note that this is also an instrument open to accession by non-member States. A number of these, such as the US, Canada, Japan and Mexico, have participated very actively in promoting and drawing up this Convention. I should like to express the extreme gratitude of the Council of Europe to these countries for their invaluable efforts and contributions. The Convention acknowledges this by providing that these countries are entitled to privileged accession, that is, exactly as if they were members of the Council of Europe. Furthermore, once non member-States become Parties to the Convention, they will be on a complete equal footing with member States. *Here again, it is crucial that these countries join our treaty which, as I said, led a very promising start*

I should recall that, of course, becoming a party to the Convention involves automatic acceptance to join the GRECO monitoring system.

Let me also, Mr Chairman, in addition to the aforesaid, simply mention other actions and initiatives under way, which are likely to see the light this year.

*d) The draft civil law Convention on corruption.*

A feasibility study adopted in 1997 showed that it was possible to conceive a number of scenarios where the use of civil law remedies might be useful against given forms of corruption. On the basis of this study, the Council of Europe has elaborated a draft Convention dealing with civil remedies for compensation for damage resulting from acts of corruption. This text deals with substantive and procedural issues including, among others, compensation for damage, evidence, liability, non-pecuniary remedies, validity and effect of contracts, transparency and protection of whistle blowers. The draft is currently on the final stages of negotiation: hopefully it will be adopted at second reading tomorrow. After consulting the Parliamentary Assembly and other bodies, including international Non-Governmental Organisations, such as the International Chamber of Commerce or Transparency International, on the draft it will be finalised and adopted, in all likelihood, in the Fall this year.

The draft provides, of course, that GRECO will monitor the implementation of the Convention

*b) The Model Code of Conduct for Public Officials*

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

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

The draft Code is now under examination by our experts and is likely to be ready for adoption at the end of the year.



I shall now conclude, Mr. Chairman

While questions of the macroeconomic framework fall outside the remit of the Council of Europe, the establishment of a fair, stable, transparent and predictable legal and institutional framework is an essential concern of our organisation. A market economy, based on competition and free trade, is able to unleash the dynamic forces and to mobilise the hidden resources of each country. At the same time, competition has to take place within a clearly defined legal framework ensuring that the most efficient and not the most powerful or ruthless are successful. In fact, this is largely equivalent to being a country which accepts democracy, the rule of law, individual rights and freedoms, all the basis principles enshrined in the Statute of the Council of Europe. In our view, therefore, fighting corruption cannot be dissociated from the defence of our principles and ideals, from the defence of democratic security in Europe.

This is perhaps why we are putting so many efforts in implementing an ambitious and comprehensive programme to counteract the spread of the corruption scourge. The Council of Europe is not alone in this combat and we pay tribute to the OECD for the success story of its Convention on bribery in international business transactions, which constitutes a major step forward. Although the geographical scope and approaches of both organisations somehow differ, they can easily complement one another. We have been associated to the work carried out in the OECD, and we have, in turn, invited OECD, World Bank and other international organisations to join the Council of Europe initiatives against corruption. There is, certainly room for additional co-operation, as shown by the Anti-corruption network for transition economies, recently established at the initiative of the OECD and USAID, in which the Council of Europe is also present.

The results achieved by the Council of Europe in the fight against corruption would not be there had we not received help, impulsion and input from non-member States and other international organisations. We are sure that we will be able to count on them for the implementation of the standards that have been defined and for the further development of our Programme of Action. In turn, the Council of Europe will be always present, when so required, to co-operate with others in the global combat against corruption.

All efforts are needed to expel the corrupt from our hardly won democratic regimes, to ban bribes and undue payments from public life.

In short, to build the walls that will preserve the stability of our economies, the moral foundations of our societies and the dignity of our peoples.

Thank you for your attention.