



EUROPEAN
COMMISSION

Brussels, 3.2.2014
COM(2014) 38 final

ANNEX 1

ANNEX

BELGIUM

to the

EU Anti-Corruption Report

BELGIUM

1. INTRODUCTION — MAIN FEATURES AND CONTEXT

Anti-corruption framework

Strategic approach. At federal level, for constitutional reasons, Belgium does not have a comprehensive anti-corruption strategy. Nevertheless, the number of existing regional initiatives aiming to enhance integrity provides a well-developed framework for prevention. In its Second Round Evaluation, the Council of Europe’s Group of States against Corruption (GRECO) recommended a systematic assessment of the risks of corruption in the Belgian public administration and the evaluation of measures introduced to combat corruption, but concluded in 2009 that this had only partly been done.¹ The coalition agreement in 2011 mentioned the promotion of integrity at political level only briefly.² At federal level, corruption is not regarded as a priority, despite recent corruption cases involving a variety of public institutions, police and the judiciary. The fight against corruption was seen as a matter of security by the national police, and therefore was part of the security strategy of the Government prior to 2011, but it is not mentioned as a priority area anymore.³

Legal framework. While the legal framework to fight corruption effectively is largely in place, a number of GRECO recommendations on criminal law (including on trading in influence and dual criminality) as well as on party funding have remained unimplemented or only partially implemented for a long time. In 2011, GRECO concluded that Belgium had satisfactorily implemented or addressed only one of the 15 recommendations set out in the Third Round Evaluation Report.⁴ It therefore deemed the implementation of the recommendations to be ‘globally unsatisfactory’.⁵ No legislative activity has followed at federal level, and the situation remained unchanged until the interim compliance report, which concluded that three recommendations altogether had been implemented by 2013.⁶

Institutional framework. At federal level, the Bureau of Administrative Ethics and Deontology coordinates integrity policy.⁷ The institutional involvement of public bodies fighting corruption varies depending on the region. For example, the region of Flanders has involved the Flemish ombudsman in its whistleblowing protection scheme.⁸ The Flemish, Walloon and Brussels regions have their own internal audit services. Only the Flemish region’s audit agency has the authority to conduct investigations.⁹ If the audit agency finds evidence of criminal activities, it sends the file to the public prosecutor. Academic research, including the Quality of Governance index, shows divergence between Flanders and Wallonia in perception of corruption: while the former is among the best-performing regions in the EU, the latter is in the bottom half of the EU regions surveyed.¹⁰

1 Second Evaluation Round Addendum to the Compliance Report on Belgium; Greco RC-II (2006) 9E Addendum [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2\(2006\)9_Add_Belgium_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2(2006)9_Add_Belgium_EN.pdf).

2 <http://www.premier.be/fr/accord-de-gouvernement>.

3 Plan national de sécurité 2008–2011 <http://www.polfed-fedpol.be/pub/pdf/PNS2008-2011.pdf>; Plan national de sécurité 2012–2015; <http://www.polfed-fedpol.be/pub/pdf/PNS2012-2015.pdf>.

4 Greco RC-III (2011) 6E, adopted at its 51st plenary meeting (27 May 2011).

5 Third Evaluation Round, Interim Compliance Report on Belgium, Greco RC-III (2012) 5E Interim Report.

6 The 2nd Interim Compliance Report was adopted in 2013 but it has not yet been made public.

7 Bureau d’Ethique et de Déontologie administratives, created in July 2006. http://www.begroting.be/portal/page/portal/INTERNET_pagegroup/Internet_ethiek_voorstelling.

8 <http://www.vlaamsparlement.be/Proteus5/showPersbericht.action?id=8792>.

9 Interne Audit van de Vlaamse Administratie (IAVA) <http://www2.vlaanderen.be/doelbewustmanagement/>.

10 Ranked 59th (Flanders) vs 133rd (Wallonia). From Åland to Ankara: European Quality of Government Index http://www.qog.pol.gu.se/digitalAssets/1455/1455551_2013_11_charron.pdf.

Opinion polling

Perception surveys. In the 2013 Special Eurobarometer,¹¹ 67% of the general population of Belgium stated that, in their opinion, corruption was widespread in Belgium. This is below the EU average (76%).¹²

Experience of corruption. Petty corruption seems relatively rare: 12% of respondents felt affected by corruption in their daily lives (as opposed to 26% in the EU), and 3% of those who dealt with the institutions named in the survey were expected to pay a bribe in the last 12 months (EU average: 4%).

Business surveys. According to the 2013 Eurobarometer Business Survey, business representatives ranked Belgium as one of the least corrupt countries based on a question asked of a sample of those company representatives who took part in public procurement, with only 47% declaring that corruption was widespread, as compared with the EU average of 75%.¹³ 38% of business representatives consider corruption to be an obstacle to business in Belgium, which is just under the EU average, and 46% think that nepotism and patronage is a problem for doing business, which is above average (41%). 6% of those who participated in public procurement in the past three years reported being prevented from winning because of corruption, which is a low figure compared to the EU average (32%). All negative practices in the context of public procurement, while they do seem to occur, are less frequent than the EU average. Respondents in Belgium reported tailor-made specifications for particular companies in 45% of cases. Collusive bidding was reported by 36% as a widespread practice. Moreover, 45% of respondents noted conflicts of interest in the evaluation of bids and 35% pointed to unclear selection or evaluation criteria. According to the World Economic Forum's 2013-14 Global Competitiveness Report, Belgium is the 17th most competitive economy in the world, out of 152 countries.¹⁴

Background issues

Private sector. Belgium had transposed Framework Decision 2003/568/JHA on corruption in the private sector by 2007.¹⁵

Foreign bribery. A track record of foreign bribery prosecution remains to be developed, given the low number of cases detected. Although investigations are ongoing in six foreign bribery cases and a prosecution has commenced in another, not a single Belgian national or Belgian company has ever been prosecuted in a foreign bribery case to date.¹⁶

In the most recent Transparency International Bribe Payers index, from 2011, Belgium scored 8.7 (out of 10), indicating a low prevalence of corruption in international business transactions. Belgium's stance against corruption in international business relations is reflected in a 2008 document from the federal government on preventing corruption in corporate life,¹⁷ in which it raises awareness among companies operating in the international market regarding the risks and consequences of corruption. Nevertheless, Transparency

11 2013 Special Eurobarometer 397. A similar assessment is reflected by national surveys: one tenth of the population had encountered corruption in the previous year, 3% confessed to having paid a bribe. Mediated experience is higher: 43% of the population has heard about corruption in their neighbourhood. Online survey by Ipsos, 13 June 2011.

<http://www.ipsos.cz/tiskove-zpravy/quo-vadis-korupce>.

12 2013 Special Eurobarometer 397.

13 2013 Flash Eurobarometer business 374.

14 http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf.

15 Commission staff working document: Annex to the Report from the Commission based on Article 9 of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (COM(2007) 328 final), Brussels, 18.6.2007; SEC(2007) 808.

16 Phase 3 report on implementing the OECD Foreign Bribery Convention in Belgium, 2013 <http://www.oecd.org/daf/anti-bribery/BelgiumPhase3ReportEN.pdf>.

17 *Corruption? Not in our company* http://www.dsb-spc.be/doc/pdf/BROCHURE_CORRUPTION_EN_LowRes.pdf.

International stated in its last progress report on implementation of the OECD Anti-Bribery Convention that there is only ‘a moderate enforcement’ of the Convention in Belgium and argued that there is insufficient investigation and prosecution of corruption in international business transactions, due to a lack of resources within the judiciary.¹⁸ In 2013, the OECD recommended a long list of measures to fight foreign bribery more effectively.¹⁹ The Working Group on Foreign Bribery was disappointed by the lack of priority Belgium gave to the fight against bribery of foreign public officials, including a lack of resources in charge of investigations, prosecutions and sentencing in these cases, which, in some foreign bribery cases, led to investigations not being opened, cases being closed and expiry of the statute of limitations.

Whistleblowing. Comprehensive legislation on the protection of whistleblowers at federal government level will enter into force on 4 April 2014.²⁰ Previously there has been no comprehensive protection for civil servants in the federal administration wishing to report illegal practices and integrity violations, aside from provisions prohibiting discrimination and harassment. The law also provides for a compulsory preliminary consultation for whistleblowers to prevent retaliation. The investigation of alleged integrity violations will be coordinated by the federal ombudsman. Provisions on whistleblowers have existed since 2004 in the Flemish administration, where the ombudsman provides an external communication channel and protection for those who are unable to submit their report in their own workplace. The Flemish Parliament further strengthened these provisions in a decree in 2012.²¹ While the ombudsman was previously obliged to communicate the identity of the whistleblower to the head of the administration, the new decree allows for keeping the name of the whistleblower confidential for a certain period of time, as well as the possibility of transferring the whistleblower to another position in another organisation of the Flemish administration at the same level and without loss of income.

Transparency of lobbying. There is no specific requirement to register lobbyists or report contact between public officials and lobbyists in Belgium. The code of ethics for the members of the Flemish Parliament mentions contacts with citizens, groups and institutions without setting rules on reporting.²² The rules of conduct adopted in Wallonia remain silent on this question.²³

2. ISSUES IN FOCUS

Prevention of corruption

The approach to prevention and detection of corruption differs considerably according to the level of administration (federal, regional and local). Within the federal administration, while certain integrity initiatives have been launched and rules for internal auditing have been tightened, a comprehensive prevention policy is not yet in place. At federal level, the Bureau

18 *Exporting corruption? Country enforcement of the OECD Anti-Bribery Convention*. Progress report 2012. http://www.transparency.org/whatwedo/pub/exporting_corruption_country_enforcement_of_the_oecd_anti_bribery_convention.

19 Phase 3 report on implementing the OECD Anti-Bribery Convention in Belgium <http://www.oecd.org/daf/anti-bribery/BelgiumPhase3ReportEN.pdf>.

20 *Loi relative à la dénonciation d'une atteinte suspectée à l'intégrité au sein d'une autorité administrative fédérale par un membre de son personnel*.

21 <http://www.vlaamsparlament.be/Proteus5/showPersbericht.action?id=8792> The new Decree was promulgated on 9 November and published on 7 December 2012. http://www.etaamb.be/nl/decreet-van-09-november-2012_n2012206772.html.

22 *Deontologische code van de Vlaamse volksvertegenwoordigers inzake dienstverlening aan de bevolking*, Gedr.Stuk, 7-A (1998-1999) — Nr. 1. <http://docs.vlaamsparlament.be/docs/stukken/1998-1999/g7a-1.pdf>.

23 *Charte de bonne conduite administrative* <http://wallex.wallonie.be/PdfLoader.php?linkpdf=3640&mode=popup>.

of Administrative Ethics and Deontology coordinates integrity policy, but has limited human resources, employing five people.²⁴

At regional level, relevant documents from Wallonia and Brussels do not focus on issues of integrity, transparency or the fight against corruption.²⁵ The Flemish Government²⁶ has developed an integrity policy, aimed at preventing and fighting fraud and corruption in its administration. It is based on three pillars: prevention, monitoring and detection, and response and penalty. Integrity is defined as ‘acting according to written and unwritten norms and values that express concepts such as honesty, integrity, diligence, purity of intent, knowingly acting in good faith, credibility and reliability’. It thus supports a broad concept of integrity and expects its civil servants to respect and promote these. It is seen as an important instrument to earn citizens’ trust and confidence of the business community.

Good practice: integrity programme in the Flemish Region

A number of tools have been developed to implement this policy in practice. They include: (1) a code of ethics for staff in the regional/Flemish administration;²⁷ (2) a guide for a tailor-made integrity policy specific to vulnerable positions in the administration; (3) a guide aimed at introducing new staff to integrity rules; (4) a set of tools to communicate on integrity and integrity infringements; (5) a dedicated code for managers based on 12 principles; (6) detection (of suspicious patterns) and forensic audits (internal investigation in cases of suspicion) based on risk analysis; (7) rules and procedures for the protection of whistleblowers; (8) training; (9) an integrity coordinator (a professional in charge of implementing and developing the in-house integrity policy, to whom staff can turn for advice); and (10) a network of integrity actors, all having specific roles and acting to promote the integrity policy (e.g. the Flemish ombudsmen, the internal audit service, etc.). The Flemish Region has an integrity coordinator who coordinates various local integrity initiatives in public administrations employing approximately 50 000 persons.²⁸

Outside the administration, at political level, integrity-enhancing tools have been created. Since 1 January 1998, members of the Flemish (regional) Parliament have been subject to a code of ethics,²⁹ which provides the framework within which they can properly exercise their mandate. It clearly defines illegal practices such as clientelism, administrative favouritism, lobbying or undue influence over administrative acts. Since 1 January 2008, members of the Flemish Government and the staff in their cabinets have had to comply with specific ethical codes. For example, it is forbidden for members of cabinets to give policy advice on files related to associations, institutions or companies they have/had (directly or indirectly) interests in.

Finally, awareness-raising campaigns are part of the integrity policy. One example of such a campaign was the distribution of free (fake) film tickets on the back of which was written ‘have you never asked yourself why they’d give you a film ticket?’

Local government response to corruption risks has been uneven. Initiatives seem to depend largely on individual motivation rather than being the result of a coordinated approach. Some

24 http://www.begroting.be/portal/page/portal/INTERNET_pagegroup/Internet_ethiek_voorstelling.

25 http://www.federation-wallonie-bruxelles.be/fileadmin/sites/portail/upload/portail_super_editor/Docs/declaration_politique_communautaire.pdf.

26 <http://www.bestuurszaken.be/integriteit>.

27 A similar Code of ethics exists for staff in the administration of the French Community (*Arrêté du Gouvernement de la Communauté française portant le Code de déontologie des membres du personnel des Services du Gouvernement de la Communauté française et de certains Organismes d’Intérêt public*)
http://www.gallilex.cfwb.be/document/pdf/27731_000.pdf.

28 <http://www.governance-flanders.be/integrity>.

29 *Deontologische code van de Vlaamse volksvertegenwoordigers inzake dienstverlening aan de bevolking*, Gedr. Stuk, 7-A (1998-1999) — Nr. 1. <http://docs.vlaamsparlement.be/docs/stukken/1998-1999/g7a-1.pdf>.

municipalities have set up a training programme for their civil servants, or created guidelines on gifts and social events, others screen job applicants based on their attitude to ethics, and others have developed whistleblowing systems.

In 2005, the Parliament of Wallonia passed a decree amending Article L1122-18 of the Code of Local Democracy and Decentralisation (CDLD) to require each local council to adopt rules of ethics and to consider ethics in its internal rules of procedure. The Flemish Association of Cities and Towns (VVSG) has developed a basic model code for local politicians concerning service provided by the communes.³⁰ Some local communities do, therefore, have a code of ethics for members of the local council. Despite this, allegations of corruption have been made in relation to local government. Some notable cases at local level — particularly where the same political party has had a dominant position for a long period — indicate that conflicts of interest and abuse of power are problems that require coordinated effort to tackle.³¹

In the few cases where a proactive anti-corruption policy has been implemented, it was in response to a major corruption case. The City of Antwerp has taken a tough stance against corruption and fraud after the ‘Visa scandal’, when civil servants had been using their professional credit cards for personal purchases.³² The city of Charleroi, after allegations of corruption in a complex case involving politicians, senators and representatives of the housing industry, also made efforts to increase awareness of integrity, and now has a code of ethics which is considered to be a model initiative at local government level.³³ There are doubts, however, as to whether the office created in Charleroi to oversee matters of integrity will continue beyond 2014, when its initial mandate expires.

Conflicts of interest and asset disclosure

The most detailed policy document to prevent conflicts of interest and political corruption at federal or regional level in Belgium is the code of conduct for members of the Flemish Parliament and Government (including the staff in their private offices), which provides rules on contact with citizens in Flanders.³⁴ The national government coalition agreement³⁵ from 1 December 2011 contains a chapter on ethics in politics which states that central and all other regional parliaments should work on conflicts of interest and ethical rules. It also envisages the establishment of an independent ethics committee that should prepare a draft code of ethics for the national parliament. This code should also contain provisions on conflicts of interest. To date, this commitment has not been met and similar attempts have failed in the past.³⁶ It is therefore important that these commitments are kept on the agenda and that — even outside the national parliament — ethical codes and mechanisms to prevent corruption and conflicts of interest are in place for members of all regional parliaments and members of

30 *Deontologische code voor lokale mandatarissen inzake dienstverlening aan de bevolking*, VVSG-tekst t.b.v.. Gemeenten en OCMW's.

http://www.vvsg.be/werking_organisatie/gemeentedecreet/documents/deontologische%20code%20mandatarissen%20%28nieuwe%20versie%29.pdf.

31 This is illustrated by a case dating back to 2005 involving corruption in the social housing sector. In the first trial where a sentence was handed down, the judge noted a flagrant case of breach of public interest and of democracy in favour of personal, financial and electoral interests (*‘violation flagrante de l'intérêt public’ et de ‘règles de la démocratie au profit des intérêts personnels, financiers ou électoraux’*). Certain elements of the case are still being tried.

32 http://jure.juridat.just.fgov.be/pdfapp/download_blob?idpdf=N-20081008-5.

33 <http://www.uvcw.be/articles/1354.1.03820.htm>.

34 *Deontologische code van de Vlaamse volksvertegenwoordigers inzake dienstverlening aan de bevolking* (ethics code for members of the Flemish Parliament concerning service provision). Available from: http://www.vlaamsparlement.be/vp/informatie/begrippenlijst/deontologische_code.html.

35 <http://www.premier.be/fr/accord-de-gouvernement>.

36 <http://www.senate.be/www/webdriver?MItabObj=pdf&MIcolObj=pdf&MInamObj=pdfid&MItypeObj=application/pdf&MIvalObj=50334005>.

the executive at all levels, as well as for private office staff. The adoption of these codes should be accompanied by the establishment of oversight mechanisms to ensure proper implementation.

In order to prevent conflicts of interest, Members of Parliament and senior elected officials have to submit a declaration of interests to the Court of Audit at least once a year.³⁷ This information was published for the first time in 2012.³⁸ An asset declaration has also been required from MPs and senior elected officials since 2005.³⁹ While the Court of Audit provides extensive explanations on how to make the required declarations, there is no information available about the effectiveness of the control mechanism. The most significant information provided by the Court of Audit is the list of those who failed to submit their declarations.⁴⁰ Failing to submit declarations may be punished by a maximum penalty of EUR 5 000. No data are available on the actual implementation of this rule, although at least one person is reported to have been penalised. Asset declarations are submitted in a sealed envelope, and are opened only in the event of a criminal investigation. Lack of institutional oversight combined with the lack of public access to any data on asset declarations means that such declarations are not effectively verified in practice.

Integrity in public administration

The current ethics framework for the federal public administration is addressed in two circulars from 2007⁴¹ and 2010.⁴² The 2007 circular sets out details on principles such as neutrality, loyalty, respect and professionalism. The 2010 circular concerns conflicts of interest related to public tenders and is also applicable to members of the federal government.

The case regarding the federal government Buildings Agency was a milestone for integrity policy and for clear rules on conflicts of interest.⁴³ An investigation was launched following an anonymous complaint to the prosecuting authority. Lessons were learned from this case,⁴⁴ based on external studies such as a fraud vulnerability study, a forensic audit with respect to payment orders and an external audit on the construction of courthouses in Ghent and Antwerp. In addition, control over the organisation and the award of public contracts in the agency has been strengthened. Measures have been taken to increase transparency in the award process for small contracts. Training courses and awareness-raising initiatives have been launched and ‘compliance officers’ have been appointed to act as a safe haven for staff to report irregularities. While the latter is a laudable initiative, it can in no way replace a comprehensive process for whistleblowers, which could have prevented such large-scale corrupt practices, involving senior people over several years. To raise awareness, the authorities also issued an information booklet entitled *Manuel de référence pour une gestion qualitative de chantier*.⁴⁵

There is no federal agency that conducts administrative audits or works to prevent corruption in public administration. All regions have their own internal audit service, with different

37 *Les lois spéciale et ordinaire du 2 mai 1995 rel. à l'obligation de déposer une liste de mandats, fonctions et professions et une déclaration de patrimoine et celles du 26 juin 2004.*

38 http://www.ejustice.just.fgov.be/mopdf/2012/08/14_1.pdf.

39 <https://www.ccrek.be/FR/MandatsPatrimoine.html>.

40 *Rapport annuel 2012 (15 juillet 2013)*; <https://www.ccrek.be/FR/Publications/PublicationsRecentes.html>.

41 *Circulaire No 573 du 17 août 2007 relative au cadre déontologique des agents de la fonction publique administrative fédérale.* http://www.fedweb.belgium.be/fr/reglementation/20070817_cir_573_cadre_deontologique.jsp.

Circulaire du 21 juin 2010: Marchés publics — Déontologie
http://www.fedweb.belgium.be/fr/reglementation/20100621_circ_marches_publics.jsp.

43 This Agency manages approximately 8 000 000 m² spread over some 1 500 buildings across the entire country, both owned as well as rented by the federal government.

44 See response to a number of parliamentary questions <http://www.lachambre.be/doc/CCRA/pdf/52/ac574x.pdf>.

45 http://www.buildingsagency.be/120109_integr_FR.pdf.

powers and differing measures they can take.⁴⁶ Certain parts of auditing tasks are divided among the Federal Court of Audit, the regional internal audit service and external audit experts. To avoid duplication of work, cooperation among the relevant audit agencies has been formalised in Flanders.⁴⁷ The memorandum of understanding sets out agreement on the exchange of information on strategy and planning, monitoring and risk analysis, reporting, audit methodology, manuals and good practices.

Prosecution of corruption

The number of convictions concerning the bribery of people responsible for public services ranged between 19 and 35 a year in the period 2000-06.⁴⁸ The first strategic analysis on corruption in Belgium was conducted in 2002 (based on statistics gathered between 1996 and 2000 from the five biggest prosecution offices). The second report — a vulnerability analysis applicable to public tenders — dates back to 2008. Together they formed the basis for an analysis in 2009⁴⁹ conducted by the service in charge of the fight against economic and financial crime. The latter analysis showed a certain risk of corruption among the police and among (senior) federal public servants.

The number of recently prosecuted corruption cases in Belgium appears low.⁵⁰ The annual report (2010-11) of the College of Prosecutors-General made recommendations⁵¹ noting that Belgium should make available sufficient police capacity and ensure that protracted criminal procedures do not lead to cases reaching the statute of limitations. The Attorney-General of the Court of Appeal of Ghent pointed in his annual report to the limited capacity of the Belgian Judicial system to prosecute complex criminal cases. The annual report of the College of Prosecutors General published in October 2012 also highlighted that the fight against corruption (and financial crime in general) was not being sufficiently prioritised in Belgium.

At the end of the 1990s, the High Commission of Supervision was disbanded. Consequently, there is no national focal point with judicial, administrative and preventive responsibilities for addressing corruption. Judicial and policing powers were transferred to the Central Office for the Repression of Corruption, which was established within the Federal Police. The latter works on corruption cases in cooperation with the 27 federal police offices (PJF).⁵² The 2012 police annual report announced a new strategic approach to corruption, focusing on analysing cases that were uncovered.⁵³ Preventive tasks were partially taken over by the Bureau for Administrative Ethics and Deontology, which now collects relevant information.

Plans were recently presented by the chief of the Belgian Federal Police for the dismantling of — among others — the Central Office fighting against economic and financial organised crime. Personnel working for this Office would be transferred to the future regional judicial

46 Internal Audit Agency of the Flemish Administration (IAVA); *Direction d'audit interne* of Wallonia and Brussels respectively.

47 The Belgian Court of Audit, the Internal Audit Agency of the Flemish Administration (IAVA) and the Institute of Registered Auditors (IBR), through a joint memorandum of understanding in respect of financial audit in Flanders, combine their efforts to maximise coordination of their audit activities. Their goal is to avoid duplication of work, ease the audit burden for auditees and increase the cost effectiveness of their audits.
<http://www.belgamediasupport.be/pressrelease/detail.do?pressId=15431&type=mostread&searchKey=ea715119-29bc-11e0-935e-a1edcaa22442&timeRangeId=0&pageIndex=1>.

48 GRECO (2009), Third evaluation round. Evaluation report on Belgium on incriminations, p. 8-9.

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)8_Belgium_One_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)8_Belgium_One_EN.pdf).

49 Source: Belgian Senate, Reply to question 4-3617 from Senator Dirk Claes, dated 23 June 2009, by the Secretary of State in charge of the coordination of the fight against fraud, Mr De Vlies.

<http://www.senate.be/www/?Mlval=/Vragen/SVPrint&LEG=4&NR=3617&LANG=nl>.

50 Third Round Evaluation, Evaluation Report on Belgium on Incriminations, p. 8.

51 See *Jaarverslag 2010-2011 van het college van procureurs-generaal* http://www.ommp.be/images/upload_dir/DEF%20JAARVERSLAG%2010-11.pdf.

52 http://www.polfed-fedpol.be/pub/rapport_activites/pdf/2012/ecofin/RAecofin2012-fr.pdf.

53 *Rapport annuel 2012*, p. 46 http://www.polfed-fedpol.be/pub/rapport_activites/pdf/2012/ecofin/RAecofin2012-fr.pdf.

districts. This is one of the recommendations in the 73-page audit report on the organisation of the Federal Police, ordered by the Minister for Home Affairs.⁵⁴ The Minister, however, still wishes to preserve the Central Office. The Minister also noted the need to increase the resources of the Central Office for the Repression of Corruption, noting that there was a decrease of cases investigated in 2011 and 2012, partly as a result of an earlier decrease in the number of officers.⁵⁵ A considerable police reform is planned, based on a bill recently approved for sending to Parliament.⁵⁶

Another specialised police unit located in Jumet (Wallonia), the ‘Polfin pool’, was dedicated to fighting high-level financial crime and corruption, seconded from the Central Office for the Repression of Corruption. The pool provided specialised investigators to investigate complex cases of fraud and corruption, including those involving politicians. The pool took a leading role in investigations as from February 2009, looking at sensitive cases involving senior elected officials and managers. However, this specialist unit has been recently dismantled.⁵⁷ Their investigations were passed on to other parts of the police. This might be considered a sign of comparatively less focus being given to specialised corruption investigations. On a positive note, the Asset Recovery Law of 19 December 2002 established the legal basis for specialised departments within the Federal Police to assist police investigators during criminal investigations with wide expertise in financial topics to proactively go after assets, more broadly than just in financial crimes.

Financing of political parties

Based on the Special Eurobarometer 2013 survey, 33 % of the residents of Belgium think that there is sufficient transparency and supervision of the financing of political parties, while 60 % think that transparency and supervision is not sufficient. The act on party funding (adopted in 1989)⁵⁸ was generally seen as a marked improvement. It introduced a system of public and private funding and banned donations by legal persons. The current system is based extensively on state subsidies, for a party that has obtained at least one seat in Parliament. Parties that do not receive state subsidies are not subject to the same audit mechanism. In all cases, private donations above the threshold of EUR 125 have to be individually declared. Although any donation above EUR 125 has to be declared, along with the identity of the donor, the GRECO evaluation raised concerns about donations under this threshold.

Taking into account other factors, and noting significant changes and recommendations over the last 25 years, GRECO recommended in 2009 that consideration be given to a comprehensive review of Belgian legislation on the funding of parties and election campaigns, to make it more consistent, precise and effective.⁵⁹ Most importantly, GRECO recommended introducing criteria to more systematically extend the scope of the consolidated accounts of parties and political groups to include associated structures, in particular the party’s local sections, so that oversight at local levels also takes place. It highlighted the lack

54 For the organisation of the centralised offices, see http://www.polfed-fedpol.be/org/org_dgi_djf_fr.php.

55 Rapport 2012 de la Direction centrale de lutte contre la criminalité économique et financière : des résultats qui confirment la nécessité et l’importance de ces services; 17/07/2013; <http://www.milquet.belgium.be/fr/rapport-2012-de-la-direction-centrale-de-lutte-contre-la-criminalit%C3%A9-%C3%A9conomique-et-financi%C3%A8re-des>.

56 Approbation de la Loi portant dispositions diverses en matière d’Intérieur : des améliorations importantes concernant la police; 12/07/2013; <http://www.milquet.belgium.be/fr/approbation-de-la-loi-portant-dispositions-diverses-en-mati%C3%A8re-d%E2%80%99int%C3%A9rieur-des-am%C3%A9liorations>.

57 Parliamentary Question nr. 14507 from Mr Georges Gilkinet to the Vice-Prime Minister and Minister of Home Affairs on ‘the future of the investigation pool Jumet’. 23.1.2013 CRIV 53 COM 653 <http://www.lachambre.be/doc/CCRI/pdf/53/ic653.pdf>.

58 Act of 4 July 1989.

59 Third evaluation round, Compliance report on Belgium. Public Greco RC-III (2011) 6E. http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282011%296_Belgium_EN.pdf.

of integrated bookkeeping, due to the fact that funds received by local political party bodies are not included in the parties' consolidated accounts.

GRECO also noted weaknesses in supervisory bodies, which lack developed cooperation between the federal commission and regional commissions. A unified structure would allow a better understanding of the complexity of the financial structures and flows within the parties and their affiliates and candidates.⁶⁰ The government has plans to reform the scrutiny of electoral expenses at federal and regional level, and to introduce an appeals procedure on control of electoral expenses for parliamentary elections. However, the solution envisaged, namely the procedure of the Constitutional Court, requires an amendment to the Constitution.⁶¹

In the follow-up process, GRECO criticised Belgium for providing an unsatisfactory level of compliance with its recommendations. GRECO concluded in 2012 that Belgium had made very slight progress over the past three years in implementing the Third Round Compliance Report. Most recommendations on political party funding remained unimplemented and the level of compliance with the recommendations was 'globally unsatisfactory', as noted again in October 2013.⁶² The issue of integrated bookkeeping, which would allow comprehensive insight into the finances of the political parties and their affiliated bodies, remains outstanding.

3. FUTURE STEPS

Belgium has significant elements of the necessary anti-corruption framework in place. Petty corruption does not appear to pose a challenge. However, there is a risk that corruption is not addressed in a consistent manner, given varying competences at regional and federal level. Further effort could be made to prioritise a proactive prevention policy, a more coherent use of the large variety of tools in place, and the effective prosecution of corruption-related offences. Public sector corruption, including in the police and the judiciary, conflicts of interest, and corruption at political level all require ongoing effort.

The following points require further attention:

- Introducing an integrity policy in the **administrations** where such a policy is missing and ensuring the necessary resources to support integrity schemes. Ensuring that ethical rules, including mechanisms to prevent conflict of interest, are implemented for all **appointed and elected officials**, at federal, regional and local levels. Introducing internal control tools in order to assess the application of the ethical framework.
- Increasing the capacity of the **justice system** and **law enforcement** to avoid that corruption cases are not prosecuted due to expiry of the statute of limitations because of lengthy criminal proceedings. Providing sufficient capacity for the police to detect and investigate corruption-related offences.
- Ensuring that legislation on **party funding**, including the provisions on supervisory mechanisms, covers parties that do not receive federal subsidies. Ensuring that local

60 Para 78-82 of GRECO (2009), Third evaluation round. Evaluation report on Belgium Transparency of Political Party Funding.

61 *Chambre des représentants de Belgique - Proposition de révision de l'Article 142 de la Constitution* Doc 53 2969/001; *Proposition de loi spéciale modifiant la loi spéciale du 6 janvier 1989 sur la Cour Constitutionnelle*, Doc 53 2970/001. *Proposition de loi modifiant la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques et modifiant le Code électoral*, doc 53 2972/001, *Proposition de loi modifiant la loi du 19 mai 1994* doc 53 2973/001.

62 Greco RC-III (2013) 19E.

entities affiliated to political parties are audited and fall under bookkeeping obligations that allow for a consolidated picture of political party funding, including a unified supervision and audit structure.