Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 207 (1998)[1]

Draft Criminal Law Convention on Corruption

Parliamentary Assembly

1. The Assembly considers corruption, like organised crime, to be a threat to democracy. In this respect, it recalls its Resolution 1147 (1998) on the threat to Europe from economic crime.

2. It therefore welcomes the preparation of a draft criminal law convention on corruption and of Resolution (98) 7 authorising the partial and enlarged agreement establishing the Group of States Against Corruption (GRECO), responsible for monitoring both the implementation of the convention and the application of the twenty guiding principles for the fight against corruption set forth in Resolution (97) 24.

3. The draft criminal law convention against corruption covers a very wide range of cases of corruption: active and passive bribery of domestic public officials, members of domestic public assemblies, foreign public officials and members of foreign public assemblies; bribery in the private sector; bribery of officials of international organisations, members of international parliamentary assemblies, judges and officials of international courts; trading in influence; laundering of proceeds from corruption offences; account offences and participatory acts.

4. Unfortunately the draft convention permits an unusually large number of reservations, excluding only bribery involving domestic public officials. Furthermore, the reservations are renewable ad infinitum. The Assembly fears that this will effectively deprive the convention of its substance.

5. The Assembly would therefore like to take the initiative to suggest that reservations should not be permitted in respect of bribery involving members of domestic national assemblies, foreign national assemblies or international parliamentary assemblies.

6. Provision should be made for the criminal liability of legal persons, as it is in the draft convention on the protection of the environment through criminal law.

7. The Assembly also considers that the number of ratifications required for the convention to enter into force should be reduced.

8. Finally, it wishes to be involved in the follow-up to the convention and in the implementation of the monitoring system.

9. Consequently, the Assembly recommends to the Committee of Ministers:

a. that the following amendments be made to the draft convention:

   1. to limit the number of possible reservations to the convention, either by setting an upper limit to the number of reservations parties may make, or by fixing a minimum number of commitments to which they should subscribe;

   2. in Articles 4, 6 and 10, to rule out the possibility of making reservations in respect of members of domestic public assemblies, members of foreign public assemblies and members of international parliamentary assemblies;

1. Assembly debate on 23 June 1998 (19th Sitting) (see Doc. 8133, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany). Text adopted by the Assembly on 23 June 1998 (19th Sitting).

3. in Article 8 : in respect of bribery in the private sector, to explain the meaning of "duties", for example in the explanatory report;

4. in Article 18 : to add the word "criminally" to line 2, to read "that legal persons can be held criminally liable";

5. in Article 32 : to reduce the number of ratifications needed in order for the convention to enter into force;

6. in Article 36 : to replace the second part of paragraph 2 to read: "Following this period of five years, the reservations shall expire automatically";

b. that the Parliamentary Assembly be invited to appoint a representative to the Group of States Against Corruption (GRECO), in accordance with Article 7 of the latter's statute.