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The underground economy: a threat to democracy, development and the rule of law

Reply to Recommendation¹: Recommendation 1988 (2011)
Committee of Ministers

1. The Committee of Ministers has carefully considered Parliamentary Assembly Recommendation 1988 (2011) on “The underground economy: a threat to democracy, development and the rule of law”, which it has communicated to the European Committee on Crime Problems (CDPC), the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and the Enlarged Agreement on the “Group of States against Corruption – GRECO” for information and possible comments.

2. The Committee of Ministers notes the Parliamentary Assembly’s invitation to develop and strengthen co-operation between the Council of Europe and other international organisations to facilitate interstate efforts to tackle underground economic activities and economic crime. It underlines that such activities pose a direct threat to Council of Europe values, in particular the rule of law, and are a major obstacle to economic development.

3. In this connection, the Committee of Ministers draws attention to the close co-operation that already exists between the Council of Europe and numerous international organisations, notably the United Nations, the Organisation for Economic Co-operation and Development (OECD), the Organisation of American States, the World Bank and the International Monetary Fund (IMF) through the Group of States against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). As regards co-operation with the European Union (EU), GRECO has, over the years, worked with bodies such as Eurojust, Olaf and Europol. Tangible prospects for formal participation by the EU in GRECO are now emerging. Discussions on this subject were boosted by the adoption, in 2009, of the “Stockholm Programme”, in which the European Council invited the European Commission to develop a comprehensive anti-corruption policy in close co-operation with GRECO and to submit a report on how the EU might accede to GRECO. There is no doubt that closer co-operation between the EU and GRECO in the fight against corruption is of the utmost importance for a coherent European approach in this area.

4. The Committee of Ministers shares the Parliamentary Assembly’s view on the importance of facilitating accession by the European Union and by non-member States to Council of Europe conventions in order to intensify co-operation to combat the underground economy and economic crime. It wishes to point out that Council of Europe member States can accede to the conventions at any time.

5. When examining the follow-up to the Secretary General’s report on the review of Council of Europe conventions and in the light of new developments, the Committee of Ministers will consider whether the conventions referred to in paragraph 1.8 of the Assembly recommendation can and should be updated. In addition, the Committee of Ministers invites those member States which have not yet done so to explore the possibility of signing and ratifying the conventions listed in paragraphs 1.2 and 1.9 of this same recommendation.

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6. In reply to the request to consider widening the scope of GRECO's Fourth Evaluation Round, the Committee of Ministers wishes to inform the Assembly, following consultation with GRECO, that the latter is unable to undertake any such widening at this stage in order to cover the executive branch of government, in addition to the legislature and the judiciary.

7. With regard to the Parliamentary Assembly's recommendation to put in place a European observatory for gathering data on counterfeit and substandard consumer goods that represent substantial risks to public health, the Committee of Ministers regrets to inform the Assembly that in the present budgetary context, it will not set up such a structure. The same applies to the preparation of studies on the situation of organised crime, on undeclared work and on the use by member States of financial intermediation services through offshore centres. However, the Committee of Ministers will bear these Assembly recommendations in mind. It notes that the Council of Europe Convention on Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (Medicrime Convention, CETS No. 211) contains a mechanism for exchange of information on the national as well as international level. Once this Convention enters into force and its Committee of the Parties is established, it can be used to gather the above-mentioned data, and the need for an Additional Protocol to this Convention can be examined. The Committee of Ministers also wishes to point out that both under AML standards and under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), all major offences that generate money flows, in particular counterfeit money and goods, are deemed to be underlying offences as regards money laundering. As part of its evaluation process, MONEYVAL considers whether these underlying offences are criminalised in domestic law and, if that is not the case, will provide follow-up to deal with any deficiencies.