

Guest Editorial for eucrim 1-2012

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EDITORIAL

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Dear Readers,

In 2009, the Group of States against Corruption (GRECO) – the Council of Europe’s body responsible for monitoring the implementation of the anti-corruption instruments of the organisation, including the Criminal and Civil Law Conventions on Corruption and three “soft law” instruments – celebrated its tenth anniversary. Three evaluation rounds have so far been completed. A fourth round is being launched in 2012, which will focus on corruption in the judiciary and in parliaments. Over the last decade, most of the 49 GRECO Member States have done much to improve their laws, institutions, and working methods to prevent and combat corruption as well as to raise awareness about the impact of corruption on the rule of law and the democratic functioning of institutions. However, a number of important challenges still lie ahead of us.

One of them is the EU’s participation in GRECO’s work, particularly for the future of the anti-corruption movement in Europe and beyond (accession to the Council of Europe’s anti-corruption instruments and participation in GRECO are not limited to Member States of the Council of Europe). Participation in GRECO (which is provided for in its statute) was also outlined as a key element of EU anti-corruption policy in a Communication of 2003; different possibilities for participation were explored, bearing in mind the legal competences of the EU under the Treaty on the European Union and the Treaty establishing the European Community. Given the limited Community competence at that time with regard to the above-mentioned Council of Europe conventions, there was little progress in this area until the adoption of the Lisbon Treaty (December 2007). Furthermore, a Memorandum of Understanding was concluded, in May 2007, between the Council of Europe and the EU, stipulating that legal cooperation covering the rule of law (including the fight against corruption) should be further developed to ensure coherence between EU law and Council of Europe conventions. The Treaty on the Functioning of the European Union (TFEU) provides for more streamlined EU competence on anti-corruption and paves the way for participation in GRECO’s work. The 2010 Stockholm Programme was therefore well received by GRECO, which formally expressed its willingness to contribute to the development of a comprehensive EU anti-corruption policy and particularly welcomed the invitation from the European Council to the Commission to submit a report on the modalities for the Union to accede to GRECO.

This report is now on the table. It is one of four components of the so-called “anti-corruption package” adopted by the European Commission on 6 June 2011. Another component is the Commission’s decision to establish an EU anti-corruption reporting mechanism, designed to produce a monitoring report every two years – starting in 2013 – on EU Member States’ efforts in the fight against corruption and including recommendations; it is intended to make use of the GRECO *acquis*. Full membership is one of the options discussed in the report. In this regard, the Commission pledges to request the Council to authorise the opening of negotiations for the EU’s participation in GRECO.

I anticipate that this request will be made soon and that the European Council will give the necessary go-ahead for a meaningful cooperation framework. One of the key questions will likely be whether the EU will be treated like an “ordinary” GRECO member or not. As stated in the preamble of GRECO’s statute, “full membership of GRECO should be reserved to those which participate without restrictions in mutual evaluation procedures and accept to be evaluated through them.” At its 50th plenary session in March 2011, GRECO also made clear that, from the start, the EU’s participation should be construed in such a way as to leave the door open for future evaluation of EU institutions. GRECO’s statute certainly allows for the design of specific arrangements, as appropriate.

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