

GRECO: Fifth Round Evaluation Report on Spain



András Csúri

News

On 13 November 2019, GRECO published its fifth round [evaluation report](#) on Spain. The focus of this evaluation round is on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. The evaluation focuses particularly on such issues as conflicts of interest, the declaration of assets, and accountability mechanisms (for other reports, see for instance [eucrim 1/2018](#), pp. 38–39; [2/2018](#), pp. 109–110; [4/2018](#), p. 208 and [1/2019](#), pp. 43-44).

Corruption is a highly debated issue in Spain and, together with unemployment, one of the most pressing concerns for Spanish society. The corruption cases in recent years revealed particularly high risks for local-level public procurement in urban planning and construction.

GRECO acknowledges partial progress made under the so-called Regeneration Plan (Plan de regeneración democrática) to promote integrity in public life and to adopt anticorruption laws. That said, GRECO has called for further steps to be taken towards a comprehensive anticorruption strategy. There is a need to analyse and mitigate risk areas involving the conflicting interests and corruption of persons with top executive functions. A more transparent approach is required in relation to areas such as recruitment, transfers, and staff appraisals in order to provide for more open and objective personnel decisions. The same can be said as to the allocation of benefits. The report recommends widening the scope of publication requirements for financial disclosures to include detailed information on assets and outside employment and considering shorter timeframes for reporting and publication. Information on spouses and dependent family members should also be included

GRECO acknowledges the positive efforts made by the Spanish authorities in recent years in adopting and amending anticorruption laws and regulations. However, a wide gap remains between legislation and its implementation in practice, with oversight and accountability being the weakest aspects.

Law 3/2015 on the Exercise of High Office constitutes a noteworthy effort to modernise corruption prevention policy for government officials. The law covers transparency and integrity issues, the prevention of conflicts of interest, and accountability in office. Nevertheless, more needs to be done to control its practical application, especially regarding the law's advisory, supervisory, and enforcement regimes. GRECO recommends making dedicated improvements on transparency and conflict-of-interest prevention for high-ranking government officials. This should include subjecting political advisors to the same equivalent transparency and integrity requirements as those applied to persons with top executive functions. A code of conduct for persons with top executive functions should be adopted and made easily accessible to the public.

AUTHOR

András Csúri

Vienna University of Economics and Business

ISSN: 1862-6947

<https://eucrim.eu>



GRECO also calls for stricter rules and procedures to deal with the risks of lobbying and revolving doors (when government officials leave their functions to work in the private sector). Legislation governing such post-employment restrictions should be subject to review by an independent body.

Likewise, the system regulating the criminal responsibility of top officials should be reviewed. Currently, there is a special procedure, the so-called “aforamiento,” according to which members of government suspected of having committed corruption-related offences are tried before the Supreme Court instead of the regular courts at lower instance. GRECO recommends amending this law so that it does not hamper the criminal justice process in respect of members of government.

Law 19/2013 on Transparency, Access to Information and Good Governance and the launch of the Transparency Portal are also notable tools. There is, however, more to be done to overcome the reluctance of certain public authorities (especially public companies/entities) to facilitate access to administrative information. The implementation of the law could be further advanced by facilitating information request procedures, providing for a reasonable time to answer such requests, and by raising awareness among the general public about its right to access information. Ultimately, GRECO recommends a comprehensive and effective framework for the protection of whistleblowers, which is yet to be introduced in Spain.

Regarding law enforcement agencies, GRECO recommends that the Police and the Civil Guard conduct a strategic risk assessment of corruption-prone areas and identification of trends. It also encourages the Civil Guard to adopt a Code of Conduct and make it publicly available. Both authorities should complement their respective codes with guidelines and practical measures for their implementation, e.g., regarding conflicts of interest, the use of public resources, and accessory activities.

GRECO further recommends strengthening the current vetting processes and introducing vetting at regular intervals throughout the careers of its staff members. It also encourages reviewing the career-related internal processes to improve the recording and publication of rationale in related decisions in order to achieve a more objective and transparent approach. Special attention should be paid to the integration of women at all levels in the forces. Lastly, there is a need for a full review of current whistleblower procedures within the Police and the Civil Guard in order to strengthen their protection and to better focus on the content of the information provided.

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the [European Anti-Fraud Office \(OLAF\)](#).



**Co-funded by
the European Union**