

Proceedings of the workshop on The EU's current role in GRECO and ambitions for the future: How to move towards full membership

Budgetary Affairs



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WORKSHOP PROGRAMME



WORKSHOP ON THE EU'S CURRENT ROLE IN GRECO AND AMBITIONS FOR THE FUTURE: HOW TO MOVE TOWARDS FULL MEMBERSHIP

*Organised by the Policy Department on Budgetary Affairs for
The Committee on Budgetary Control*

Monday, 14 June 2021

16:45 - 18:45

Virtual meeting

European Parliament, Brussels

WORKSHOP PROGRAMME

Welcome and introduction

16:45-17:00 **Ms Monika HOHLMEIER, MEP**
Chair of the Committee on Budgetary Control

Ms Ramona STRUGARIU, MEP
Rapporteur

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Interventions

17:00-17:10 **Ms Hanne JUNCHER**, Executive Secretary of GRECO, Council of Europe

17:10-17:20 **Mr Olivier ONIDI**, Deputy General-Director, DG HOME, European Commission

17:20-17:30 **Mr Paul MAASSEN**, Chief Country Support, Open Government Partnership (OGP)

Questions & Answers

Interventions

17:45-17:55 **Mr Mihkel ALLIK**, Member of the Legal Service, Unit for Institutional & Budgetary Law, European Parliament

17:55-18:05 **Mr Marin MRČELA**, President of GRECO, Council of Europe

18:05-18:15 **Mr João ARSENIO de OLIVEIRA**, European Affairs Coordinator, Ministry of Justice, Portuguese Presidency of the Council of the EU

Questions & Answers

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Closing remarks

18:30-18:45 **Ms Ramona STRUGARIU, MEP**
Rapporteur

Ms Monika HOHLMEIER, MEP
Chair of the Committee on Budgetary

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PROCEEDINGS

Notes from the workshop on “The EU’s current role in GRECO and ambitions for the future: How to move towards full membership the EU’s possibility to become a full member of GRECO”

The workshop took place on 14 June 2021.

Opening remarks from rapporteur Ms Ramona Strugariu

- There is a significant difference between being an observer or a full member of GRECO. All MS are members of GRECO but the EU should become a member as well.
- Membership means that GRECO regularly evaluates on members’ anti-corruption policy. It could do that for the EU as well. Recommendations furthermore include concrete recommendations, but observers do not participate in these evaluations.
- Rules against corruption strengthen citizen’s trust in institutions, so these rules should apply to the EU as well.
- There were cases of revolving door and conflict of interest in EU institutions, because rules are either not strong enough or they are not enforced. An external assessment is crucial to tackle these issues. EU institutions must be an example in fighting corruption, and an independent and regular assessment is highly important for this.
- **The EU should therefore become a full member and go beyond its observer status.**
- We have received positive signs from the Council to move towards a full membership and the vast majority of MS voiced that the EU should become a full member.

First round of presentations

Ms Hanne Juncher, Executive Secretary of GRECO, Council of Europe

- GRECO very much appreciates this workshop and would welcome the full accession of the EU to GRECO.
- GRECO is an anti-corruption monitoring body of the Council of Europe. It monitors how MS comply with anti-corruption standards. GRECO is open to both MS and non-MS of the Council of Europe and the EU. Currently there are 50 Members.
- **The criterion for membership is the willingness to participate fully in the evaluation process.**
- GRECO evaluates the institutional framework and its implementation, identifies deficiencies, prompts reforms and shares good practices. GRECO works by mutual evaluation and peer pressure of members. It can also launch ad-hoc procedures if certain changes in a MS might violate its anti-corruption standards. Such ad-hoc procedures have been used in four cases so far.
- GRECO’s work is based on objective standards and is not perception-based.
- Some recommendations by GRECO require severe, even constitutional changes. In such cases changes can’t happen over night, but GRECO observes whether any steps in the right direction are taken.
- During the pandemic, GRECO issued guidance for affected countries. The pandemic created real risks; procurements happened with few/no guarantees, contracts were awarded through direct payments, and conflict of interest rules were ignored. It is crucial that MS act lawfully, and the key principles of transparency, oversight and accountability have to be mainstreamed in all areas.
- GRECO is an anti-corruption watchdog but also a support system.

- **We would very much welcome if we could carry out our work with the EU as a full member.**

Mr Olivier Onidi, Deputy General-Director, DG HOME, Commission

- GRECO is a very important milestone for the Commission in order to strengthen the capacity to review anti-corruption policies of MS and within the institutions.
- The Commission's RoL report is an additional review mechanism for every MS, and anti-corruption is one of the essential chapters of these reports.
- The EU has recently joined UN review mechanism (UNCAC). The EU is expected to be fully reviewed in next review cycle for the first time. All Member States and the EU institutions are members of UNCAC.
- Actions of the last Commission regarding GRECO: We felt like we were running in circles discussing political issues. We entered into a discussion with the GRECO secretariat and saw that getting the EU as at least a formal observer would probably trigger the best possible engagement, and potentially bring about the decision to become a formal member.
- The EU became an observer in July 2019, therefore evaluating the benefits of being an observer is still early. Nevertheless, we see 4 aspects where the observer status generated notable progress in the fight against corruption:
 - We gain the prime expertise of GRECO. When drafting the RoL reports and recommendations, we have the opportunity to gain prime access to GRECO and review our material with them.
 - We gained the analysis and thematic screening activities through GRECO. GRECO for example published a dedicated set of recommendations during Covid-19, which was immensely useful.
 - The observer status is beneficial in terms of national alignment: In acting side by side with GRECO we are more powerful in getting other countries to do more against corruption, and it reinforces the cooperation and coordination capacity within our own Member States.
 - Our status as active observer allows us to take part in GRECO's debate. We cannot vote but can at least contribute to the discussion.
- **The next step will hopefully be a full membership in GRECO.**

Mr Paul Maassen, Chief Country Support, Open Government Partnership (OGP)

- OGP is a partnership consisting of 78 countries and several local jurisdictions.
- We observe more and more collective action for law-making. One of the areas where we see the most change is anti-corruption. Just before the pandemic, I was mildly optimistic regarding these developments. But the pandemic exacerbated existing inequalities and policy gaps and was a row-back in progress made. The importance of tackling corruption became even stronger during the pandemic as large financial flows have been mobilised, creating a high risk of corruption. An equally important challenge is that the enabling environment for tackling corruption shrunk in the pandemic, as governments increased state surveillance.
- Most problems can't be fixed by one country alone. We need collaboration, cross-country cooperation and global norms.
- OGP aims to create space for reformers that think opening up governments to input and oversight will be beneficial.
- Anti-corruption is a core OGP priority. We help anti-corruption innovators to increase the scale of their innovations, from the local to the national level. To get global norms in the fight against corruption, you need peer-learning in the form of a race to the top.
- In OGP, we saw the importance of interplay between global and regional norms. The Council of Europe is a key partner of OGP. GRECO provided strategic guidance and support in anti-corruption reforms, which formed the basis of many OGP commitments. The recommendations of GRECO lead to concrete actions in OGP member countries.

- **The EU should absolutely consider joining GRECO as a full member.**
- During Covid-19, unprecedented amounts of money are flowing into the economy. It is imperative to ensure that activities reach their intended goals and don't get lost in corruption. Corruption is one of the key threats, and the EU should be a global leader in the fight against corruption. **Therefore, joining GRECO would be a logical step.**

First round of questions

Ms Monika Hohlmeier

- Which MS are opposed to the EU joining GRECO?
- NGOs play a strong role in the fight against corruption, but some NGOs have problems from as well. We need proper checks and balances in this regard. This is increasingly important as responsibility structures in NGOs and the structures of NGOs are often not clear. This is a big question mark for me.
- Within GRECO there are members which have particular problems, members that aren't properly in line with non-corruption measures. What measures can be taken in this regard? The title may sound good, but if you look closely you see the influence from certain states that try to undermine the severity of measures and try to reduce measures. What kind of obstacles are there within GRECO?

Ms Maria Grapini

- My concern is that although we try and respond to the fight against corruption every year, corruption seems to keep growing. There are many politicians that are not acting according to the rules.
- What additional help can we provide if there is a duplication, as MS are members of GRECO and the EU becomes a full Member as well? **I think the EU should be an observer.** What happens in terms of voting in GRECO as all 27 EU MS are GRECO members as well? Even within the institutions (Council), there are suspicions of corruption. Citizens must be very confused: the EU has the ECJ and the ECA, **what extra are we providing by the EU by becoming a full member of GRECO? This might just add confusion instead of bringing anything in addition.**
- We need more transparency. Citizens need to know who has done the checks and what measures have been taken. It is not enough to just say 'we did the checks'.

Ms Caterina Chinnici

- **It is important that the EU becomes full member of GRECO and fights corruption.** We see that corruption is prominent in the cross-border area. Corruption is one of the most effective tools of organised crime to get hold of the economy. We need to fight corruption together. The pandemic reinforces the need to be more effective in the fight against corruption.
- Tenders are of special interest in the context of the pandemic. Will this be a main focus for GRECO? Will you look at tenders specifically during the 6th evaluation cycle?
- GRECO reviews are an important source for the RoL reports. In the next annual RoL review we need to look at resilience and anti-corruption more, especially with a link to public tenders. We need data that is of good quality. In this context, is it necessary for the Commission to have minimum standards to harmonise definitions of e.g. the crime of corruption and the corruption of officials?
- To Mr Maassen: Would your job be easier if across there were common definitions of crimes etc. across the EU?

Ms Ramona Strugariu

- GRECO's guide to counter corruption during the pandemic was excellent. I wish that MS had followed all of these guidelines.
- What would be the scope of the evaluation of EU institutions if the EU became a full member of GRECO? Would the evaluation cover rules and ethics codes for MEPs, Commissioners, and Ministers as members of the Council? Would you review this with clear recommendations and monitoring of enforcement?
- To the Commission: When will you formally recommend to Council to start negotiations with GRECO? Is there a time reference?
- What is the timetable for membership and what are the required preparatory steps?

Ms Hanne Juncher

- Regarding the question of what the point of reviews is because countries don't fully comply with recommendations: All countries are not on the same level, that is what multilateralism is about - to find a common ground and help everybody to do better. All GRECO members are scrutinized equally and we really go into detail. There is a lot of information, which allows you to put pressure on countries to do better.
- Regarding tenders and procurement: The 5th evaluation round focusing on central government is ongoing. We look at Covid-related issues in this context. However, we do not look at procurement generally, only in context of a given round. The topic of the 6th round is not yet agreed.
- To Ms Strugariu: Yes, we would cover all that you described.

Mr Olivier Onidi

- Regarding the question of who is objecting that the EU becomes a full member: There is no hard objection of vast majority of MS. The point is rather that you are still discussing about what would be the value added and where duplications would be. These questions are put to us, alongside legal issues. The participation in GRECO should be the subject of a normal cooperation agreement. The Council and legal service believes that we need a fully fledged mandate to have fully fledged agreement. The Commission has advanced the proposal to start as an observer to get out of this debate.
- We can't yet say when we will come forward with a formal proposal to become a full member, but in the not too distant future we can prepare an initial evaluation of what value the observer status has brought to EU. **Then we can make recommendations regarding the way forward. I cannot tell you whether the recommendation will be towards a full membership, but we will propose a way forward.** This will also be done in the context of the first review mechanism in UNCAC. The external review process will create added value. GRECO goes further in terms of scrutiny and aspects covered than UNCAC, so I believe there is lots of merit to move forward, but first the experience in UNCAC will be valuable to generate trust and show the value added.
- Regarding further refining definitions and benchmarks: This is very relevant, and this is where peer reviews like GRECO and UNCAC are useful. Such reviews bring in perspective of other individuals/jurisdictions to aim for the better.
- Civil society has an immense role to play. Beyond peer reviews amongst professionals, civil society has an immense value added in bringing in an additional layer of independence. We have a civil society platform to get this type of advice. **I am hopeful that we will incrementally improve things and show that a fully fledged membership makes sense for the EU institutions.**

Mr Paul Maassen

- The role of civil society is to support changes and act as a watchdog. Civil society is not a monolith, there is good, bad, strong, and weak civil society. But they are an essential part of any system of tackling societal challenges. We need the insights and monitoring of other actors (private sector, citizens, civil society).
- In places where RoL is not respected, you often have challenges with civil society. Nevertheless, our data tells us that first, if reforms are co-created with civil society, commitment to these reforms is stronger and more ambitious. Second, if the dialogue continues during the implementation period, you get better results.
- Regarding the question of why the EU should join as well: The constant interaction between MS and Brussels is very beneficial. Corruption acts cross-border, so we need cross-border collaboration and a race to the top. The interplay between Brussels and the MS is a big advantage of Europe and can be played up further.
- Regarding whether we need shared definitions: Yes, the more these things are harmonised the easier communication becomes. Standardisation helps to raise the bar and to define what standards and ambitions should look like.

Second round of presentations

Mr Mihkel Allik, Member of the Legal Service, European Parliament

- Under which legal basis and decision making procedure can the EU become a full member of GRECO?
 - GRECO and the EU are two international organisations, so there must be an agreement concluded between the Council of Europe and the EU on the modalities of participation in GRECO. The EU has a special status now that is different from other observers and MS.
 - On the Council of Europe side: The plenary of GRECO has to make a proposal for the agreement on modalities, which is then negotiated between the Council of Europe and the EU. It can then invite the EU to join.
 - On the EU side:
 - The substantive legal basis is Article 83 TFEU, stating that Parliament and Council may establish minimum rules for criminal actions and sanctions. Corruption is listed as a serious crime for which Article 83 may apply. The EU therefore has the competence to define rules against corruption.
 - Article 325 TFEU states that the EU and MS shall counter fraud and illegal activities affecting the financial interests of Union.
 - Both articles provide for an ordinary legislative procedure in which the Council and Parliament have equal say.
 - The procedural legal basis is Article 218 TFEU, defining the normal procedure for concluding international agreements. The agreement will be negotiated by the Commission under the directive of the Council. the agreement will be concluded once the Council obtains consent of the EP. The EP may make recommendations during the negotiations. The EP has the right to veto if its recommendations are not taken into account. In that case, the agreement on modalities will not enter into force.
- In case of a full membership - are there any legal obstacles against the institutions being monitored and evaluated like other GRECO members?
 - There are no formal obstacles, the EU may undertake legal commitments.

- The core work of GRECO is the evaluation and compliance procedure, aimed to identify shortcomings and recommend to undertake reforms. The fight against corruption is a shared competence between the EU and MS. If the EU has full status in GRECO, we have to carefully see how far the approximation of criminal law in the given field reaches. The EU should not duplicate or replace MS, and vice versa. The EU is a distinct legal entity and practical arrangements must take that into account. The EU cannot undertake tasks it is not competent to do, and we have to bear that in mind.
- **If there is political will to have full membership, it is possible to agree on this.**
- We have guidance from the ECJ on the autonomy of EU law and its institutional structure. The accession of the EU to such agreements must not affect the characteristics of EU and EU law. Full membership subjects the institutions to GRECO evaluations. We have to carefully ensure that we retain our own prerogatives under EU law.
- GRECO has no institutional members so far, therefore GRECO evaluations are designed for states. The roles and competences of institutions may not align perfectly with GRECO's evaluation at the moment, which is something we have to take that into account when negotiating the modalities.
- The agreement on EU membership in GRECO should contain clear statements on the EU's rights and obligations in GRECO. The modalities and practical arrangements must take into account that the EU is a specific legal entity.
- Modalities must contain a revision clause.

Mr Marin Mrčela, President of GRECO

- This discussion feels like a *deja vu*.
- GRECO is cooperating with parts of the EU institutions including the Commission, OLAF, Eurojust, Ombudsman, and the EP.
- I am thankful to Mr. Malik: **this is the first time I ever heard that there is no legal obstacle from the EU side to become a full member of GRECO. From GRECO's side, there is no legal obstacle either.** So far I never heard a common sense reason or legal reason of why the EU could not be a member of GRECO. There are statements reaching from not understanding to finding excuse to why the EU should not become a full member. **The real issue is the political will. If there is political will, the EU will become a full member. If there is no will, it will not.**
- GRECO recommendations are tailor-made and built to fit the specific situation of specific countries. Therefore our work could be fit for the EU as well. The EU institutions should decide whether they want to be known as institutions who are not only preaching anti-corruption standards but also abiding to them.
- The EU's observer status is good for two more reasons in addition to what Mr Onidi said
 - In order to be able to tell other people what to do, the EU needs to sort out its own problems as well. If you are advising other people (MS) on how to fight against corruption, you should show that you are abiding to these standards and willing to fight corruption yourself.
 - The EU will be subject to tailor made recommendations. It would be evaluated and receive good recommendations on what to improve. Joining GRECO is therefore important for the EU's integrity and credibility as well.
- **The EU should join GRECO and find a way how to do it. From the EU's side there are no legal obstacles. The tailor made recommendations will have in mind the specific situation of the EU.**
- **I never heard any EU MS objecting to full participation of the EU to GRECO. It therefore appears that the resistance is to be found within the EU institutions themselves.**

- **I complement the work of Mr Malik. Now we know that there is no legal obstacle for the EU to join GRECO and no legal obstacle from GRECO's side. The only thing we need is political will.**

Mr João Arsenio de Oliveira, Representative of the Portuguese Presidency

- We agree that corruption is a global phenomenon with economic and social impact and that Covid-19 strengthened existing issues.
- We as Council made the fight against corruption a priority.
- GRECO ensures the compliance with rules through a system of evaluation and peer-pressure. GRECO has prompted necessary reforms and plays a great role in establishing anti-corruption measures.
- Improving the anti-corruption capacity by monitoring compliance is one of the objectives that EU shall pursue. A participation in GRECO would bring additional value in preventing and fighting corruption and in strengthening the EU's anti-corruption policy.
- These benefits can be achieved through different modalities of EU participation in GRECO. Since 2 years (10th July 2019), the EU has an observer status within GRECO. This allows the EU to participate in GRECO meetings, but has limitations as well. These limitations make it necessary to consider an upgrade of the EU's participation. There are two ways to upgrade participation:
 - Membership with limited voting rights, where the EU has no decision making powers in the evaluation process but is actively involved in other decisions to make sure that there is a focus on policy areas most relevant to the EU.
 - Full membership, which would allow the EU to participate without any limitations in the evaluation process of MS, candidate state, and third countries. The EU could have one representative in the GRECO bureau. This would be the most intense form of EU participation in GRECO. The evaluation of EU institutions by GRECO requires further assessment in terms of requirements, feasibility and potential impacts.
- **Both types of membership have pros and cons and require careful consideration. This is the Council's position.**
- In October 2019, the vast majority of MS considered that full membership is the next objective.
- Since then, the Council focused on other elements of combating corruption. The Portuguese presidency e.g. focused on UNCAC. It considered that combating corruption should remain a key objective to the EU and MS and welcomed that the EU institutions will be reviewed in terms of their compliance with UNCAC provisions.
- The observer status in GRECO is by most MS seen as a first step creating the path towards full membership. The presidency welcomes the progress achieved in the cooperation between the EU and GRECO and believes this will further be addressed in the future.

Ms Monika Hohlmeier

- In GRECO there are countries whose status is not seen as democratic RoL. I doubt whether these states' analysis will be good for the EU. How do you deal with these MS in GRECO?
- Regarding NGOs: there are countries that are impacted by Russia and China, who set up NGOs aimed at undermining processes.
- Are MS looking forward to the EU acceding to GRECO or not?

Ms Caterina Chincici

- **There are no legal obstacles and MS are not an obstacle either. That is excellent.**
- Do you think the time is ripe for the EU to become a full-fledged member of GRECO? Are we at a point to start the process of making sure the EU becomes a full-fledged member?

Ms Ramona Strugariu

- We heard that nothing stops us from joining GRECO, so what are the next steps? What do we do to get an invitation?
- Will the presidency will take this on their agenda and coordinate these actions? Is the Council committed to this full membership?

Mr Mihkel Allik

- **Everything depends on the modalities we agree with GRECO. We have to take the EU's status into account, but generally all can be done within the current legal framework and the EP will have an impact on the agreed modalities.**

Mr Marin Mrčela

- Modalities can be adjusted, the only issue is whether there is political will for the EU to join or not. We are at the point where the EU should join. **It all depends on the EU institutions, not on GRECO. GRECO has been ready for 12 years.**

Mr João Arsenio de Oliveira

- **MS discussed this accession in October 2019, and the overwhelming majority was in favour of making progress. The EU should become full-fledged member.**
- There were a few caveats: What will the requirements and viability be? The legal services stated that from a legal standpoint there is no issue, but there might be other types of problems. **There are concerns about the consequences and impacts a full membership could have.**
- In the Portuguese presidency we have two weeks left, but we will try to make as much progress as possible in that time.

BRIEFING

EU cooperation with the Group of States against Corruption (GRECO): how to move towards full membership

Background document for the workshop: The EU's current role in GRECO
and ambitions for the future: how to move towards full membership

Summary

The Council of Europe (CoE) has been playing a crucial role in the promotion of human rights, democracy and the rule of law for more than 70 years. The fight against corruption is essential for maintaining the rule of law. Corruption undermines the functioning of the state and public authorities at all levels and is a key enabler of organised crime. Effective anti-corruption frameworks, transparency and integrity in the exercise of state power can strengthen legal systems and trust in public authorities¹. The Group of States against Corruption (GRECO) is the CoE's anti-corruption body. It is currently composed of [50 member states](#), with others expressing an interest. Apart from all European Union (EU) Member States, its members include countries such as Belarus, Switzerland, the UK, the USA and, most recently, Kazakhstan, which joined in 2020. The EU supports the work of the CoE by contributing to its budget to fund joint programmes and supporting cooperation in the legal field to foster political dialogue. The EU became an observer to GRECO in July 2019. The objective of this workshop is to exchange views on the EU's potential full membership of GRECO in the future. In the context of the preparations for the organisation of the workshop, the Chair of the Committee on Budgetary Control has sought the opinion of Parliament's Legal Service on the possibility for the EU to become a full member of the CoE Agreement establishing GRECO. This paper will present GRECO and its work, GRECO cooperation with the EU and the conclusions of the opinion of Parliament's Legal Service.

¹ GRECO, 21st General Activity Report (2020), feature article by European Commissioner for Justice, Didier Reynders, p. 16.

GRECO and its work

GRECO helps its members to improve their capacity to fight corruption by monitoring their compliance with the Council of Europe's [anti-corruption standards](#), notably: the Criminal Law Convention on Corruption (ETS 173), the Civil Law Convention on Corruption (ETS 174) and the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191). These are complemented by three soft law instruments: Twenty Guiding Principles for the Fight against Corruption, Recommendation on Codes of Conduct for Public Officials, and Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.

GRECO also helps its members to identify deficiencies in national anti-corruption policies by encouraging the necessary legislative, institutional and practical reforms, and it provides a platform for sharing best practices in the prevention and detection of corruption.

GRECO's work methodology comprises [evaluation and compliance procedures](#). The evaluation procedure involves collecting information through questionnaire(s), on-site country visits and high-level discussions with domestic key players. The evaluation reports state whether legislation and practice comply with the provisions under scrutiny and, where action is required, address recommendations to member states. The authorities are subsequently asked to report on the measures taken, which GRECO then assesses following the compliance procedure, under which it monitors the implementation of the recommendations it has issued in the evaluation report to the country concerned. Compliance reports adopted by GRECO contain an overall conclusion on the implementation of all recommendations, the purpose of which is to decide whether to terminate the compliance procedure in respect of a particular member. GRECO's monitoring work is organised in rounds, each with its own thematic scope. Since the founding of GRECO in 1999, five evaluation rounds have been undertaken:

- Fifth Evaluation Round (2017-ongoing) – thematic scope: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies;
- Fourth Evaluation Round (2012-2017) – thematic scope: Prevention of corruption in respect of members of parliament, judges and prosecutors;
- Third Evaluation Round (2007-2012) – thematic scope: Incriminations and political funding;
- Second Evaluation Round (2003-2006) – thematic scope: Public administration and corruption, links between corruption, organised crime and money laundering;
- First Evaluation Round (2000-2003) – thematic scope: Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption.

The publication of evaluation and compliance reports is a voluntary but well established practice and crucial for raising awareness of GRECO's findings across society and encouraging domestic debate.

2020 and the COVID-19 pandemic raised new challenges in the field of corruption which GRECO was quick to recognise. GRECO President, Mr Marin Mrčela, stated the following in the 21st General

Activity Report (2020): 'As countries face undeniable emergencies, concentration of powers, derogations from fundamental rights and freedoms, and as large amounts of money are infused into the economy to alleviate the crisis (now and in the near future), corruption risks should not be underestimated.' Due to the COVID-19 pandemic, GRECO could not carry out on-site visits in 2020, but it has issued detailed guidelines for member states on managing corruption risks in the context of COVID-19 and has called upon all member states to follow them closely. Despite the difficulties caused by the pandemic, GRECO has called 2020 a year of growth because, among other reasons, the EU started participating as an observer. GRECO is proud that its evaluation reports continue to be an important source for the Commission's Rule of Law Report and that its work is central to ensuring the rule of law in Europe.

EU membership of GRECO

EU membership of GRECO was envisaged in the following GRECO founding documents:

- [Statutory Resolution](#) No. (93)28 on partial and enlarged agreements (1993)

'VI European Community

The European Community may be invited by the Committee of Ministers to participate in a Partial, Enlarged Partial or Enlarged Agreement. The modalities of its participation shall be determined in the decision inviting it to participate.'

- [Agreement establishing the Group of States against Corruption](#) and its Appendix: Statute of GRECO (1999)

The Statute holds:

'Article 5 - Participation of the European Community

The European Community may be invited by the Committee of Ministers to participate in the work of the GRECO. The modalities of its participation shall be determined in the resolution inviting it to participate.'

'Article 8 - Operation of the GRECO

(4) The GRECO shall draw up its own Rules of Procedure. Any State or the European Community, when becoming a member of the GRECO, shall be deemed to have accepted the Statute and the Rules of Procedures of the GRECO.'

- [Memorandum of Understanding](#) (MoU) between the Council of Europe and the European Union (2007)

'26. The Council of Europe and the European Union will continue to strive to develop appropriate forms of co-operation in response to the challenges facing European society, and to enhance the security of individuals, particularly as regards combating terrorism, organised crime, corruption, money laundering and other modern challenges, including those arising from the development of new technologies.'

- GRECO [Rules of Procedure](#) (1999 as amended)

'Rule 2

Participation of the European Union

1. The European Union may become a member of GRECO in accordance with the following procedures:
 - a) upon invitation by the Committee of Ministers to participate in GRECO, in accordance with Article 5 of the Statute;
 - b) if it becomes a Party to the Criminal Law Convention on Corruption (ETS 173), upon invitation by the Committee of Ministers, in accordance with Article 33 of this Convention;
 - c) if it becomes a Party to the Civil Law Convention on corruption (ETS 174), in accordance with Article 15 of this Convention.
2. The invitation to the European Union to accede to the Criminal Law Convention on Corruption (ETS 173) in accordance with Article 33 of this Convention shall settle the modalities of participation referred to in Article 5 of the Statute of GRECO. Such an invitation shall also be regarded as an invitation to become a member of GRECO in accordance with Article 5 of its Statute.
3. The modalities of participation in GRECO of the European Union shall be regulated by an agreement between the Committee of Ministers and the European Union on the basis of a proposal made by GRECO and endorsed by the Statutory Committee. In the light of the proposal of the Statutory Committee, the Committee of Ministers shall issue the invitation, under paragraph 1, sub-paragraphs (a) and (b) of this Rule.'

In 2014, the European Court of Auditors made strong statements regarding the lack of the European Union's participation in GRECO. ([The European Court of Auditors' View on the Commission's Report on Anti-Corruption Measures](#)):

- '14. The European Union does not currently participate in the Council of Europe Group of States against Corruption (GRECO). All 28 EU Member States are already members of GRECO. It is hard to explain to EU citizens that the national institutions of all 28 EU member states are evaluated against the Council of Europe's anti-corruption standards, whereas the EU administration is not. Repeatedly the Council has requested the Commission to undertake action to realise such membership.

Conclusions

25. EU institutions should have been included in the Commission's first anti-corruption report. Any information from the Commission would still be most welcome, even at this late stage. No convincing reasons are provided why the European Union does not yet participate in the Council of Europe of Group of States against corruption (GRECO). The European Union should engage with GRECO with the aim of gaining full membership, the objective being to bring the EU administration onto the same level as the governments of its 28 Member States, whose compliance with Council of Europe anti-corruption standards is already subject to evaluation.

In 2019, or twenty years after the establishment of GRECO, the Committee of Ministers of the Council of Europe accepted the European Union as an observer to GRECO ([Council of the European Union Decision](#) on the position to be taken on behalf of the European Union within the plenary meeting of GRECO as regards the decision on granting the Union observer status in GRECO, 14 June, 2019, Doc.9884/19):

- '(4) Acquiring observer status has legal effects, limited to the following: observers have the right to participate in GRECO meetings and to have access to all documents discussed; observers do not have the right to vote, are not subject to evaluation and do not take formal positions in evaluation processes nor participate in evaluation missions. No financial contribution is requested from observers.
- (5) The participation of the Union in GRECO as an observer does not preclude its possible future participation in GRECO as a full member.'

The latest discussion at EU level as to whether the EU should become a full member of GRECO took place in [October 2019](#). The Finish Presidency of the Council of the EU launched a debate on the way forward in the area of EU action against corruption. The question '[should the EU become a full member of GRECO?](#)', was put to the Ministers of Justice and Home Affairs in the Council. During the exchange of views, the majority of ministers were supportive of the EU becoming a full member of GRECO and they sent a clear message that the EU institutions should be subject to the anti-corruption monitoring mechanism:

- 'Ministers exchanged views, in public session, on the EU's action against corruption. A large majority of ministers supported the principle of a new comprehensive EU strategy or action plan which would need to focus on areas where the EU work can bring added value. Possible synergies with existing international instruments will also be looked at. Finally, the presidency concluded **there is a clear majority in support of the EU becoming a full member of the Council of Europe's Group of States against Corruption (GRECO).**'

EU-CoE/GRECO cooperation

The 2007 Memorandum of Understanding between the Council of Europe and the EU serves to guide, govern and structure relations between the two entities. The entry into force of the Lisbon Treaty and the Charter of Fundamental Rights of the European Union has created new opportunities to further enhance cooperation between the CoE and the EU in the field of human rights protection in Europe. Therefore, on 31 May 2018, the Council of Europe issued the [Overview of arrangements for co-operation between the Council of Europe and the European Union](#), which outlines the consultation modalities and the examples of sectoral cooperation between the CoE and the EU. On the side of the EU, the Council of the EU adopted, on 13 July 2020, the [Conclusions on EU priorities for cooperation with the Council of Europe 2020-2022](#), which clearly state that the Council of Europe plays a standard-setting role in the fields of human rights, rule of law and democracy, and that the Council of Europe's impact reaches beyond Europe, as many of its conventions are open for global signature and several of its mechanisms extend around the world. Furthermore, the document states that the monitoring carried out under the European Rule of Law Mechanism will take into account existing Council of Europe's instruments and expertise in this area:

- 'In this context, **the Commission seeks strengthened cooperation with the Council of Europe**, including the Venice Commission, **GRECO** and the Council of Europe's European Commission for the Evaluation of the Efficiency of Justice (CEPEJ). The Council of Europe, following an invitation by the Commission, has appointed a contact person for the network of contact points on the rule of law and the Commission will closely cooperate with the Council of Europe to ensure that the work on the rule of law is mutually reinforcing and avoids unnecessary duplication. For the preparation of the annual report, the European Commission will also engage in a dialogue with relevant stakeholders such as the Consultative Council of European Judges and the Consultative Council of European Prosecutors. The Venice Commission's rule of law checklist can help to identify specific risks and weaknesses.

- The EU's participation in **GRECO** as an observer facilitates joint work with the Council of Europe on capacity-building and implementation of standards intended to strengthen the rule of law and the fight against corruption, such as the protection of whistle-blowers. The EU will continue close cooperation with GRECO on capacity building and implementing standards to strengthen the fight against corruption.'

The [2020 Rule of Law Report](#) presents both a synthesis of the rule of law situation in the European Union and, in its 27 country chapters, Member State-specific assessments of significant developments related to the rule of law. It covers four pillars: the justice system, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances. For the Rule of Law Report the Commission collects data on the state of play on combating corruption across all Member States. In these reports the Commission uses insights from the corresponding GRECO country reports (under different evaluation rounds) and refers to the CoE standards on fighting corruption.

The EU provides substantial funding for technical assistance work carried out by the CoE. The funding of the EU enables the CoE to implement projects that promote and strengthen the fight against corruption according to GRECO recommendations. This work extends to the Council of Europe member states and neighbourhood regions (MENA and Central Asia). The EU contributed EUR 41 million through Joint Programmes to the Council of Europe's [2020 budget](#) of EUR 496 million.

European Parliament Legal Service's opinion on the possibility for the European Union to join GRECO as a full member

On 20 July 2020, the Chair of the Committee on Budgetary Control made a request to Parliament's Legal Service for a legal opinion on the possibility for the EU to join GRECO. The request contained two questions:

- 'Under which legal base and decision-making procedure can the EU become a full member of GRECO?'
- 'In case of a full membership of the EU, are there any legal obstacles against the EU institutions being monitored and evaluated like those of the other GRECO members?'

In its opinion dated 15 December 2020, the Legal Service reached the following conclusions:

- a) The appropriate legal basis for the Union to become a full member of GRECO is Article 83 TFEU, in conjunction with Article 218 TFEU.
- b) Full EU membership of GRECO would require an invitation from the Council of Europe's Committee of Ministers and the conclusion of an Agreement between the Council of Europe and the EU on the modalities of membership.
- c) The decision-making procedure is the one laid down in Article 218 TFEU for the conclusion of international agreements. The Council, acting on the recommendation of the Commission, would authorise the latter to negotiate the modalities of membership with the Council of Europe (Article 218(3) TFEU). Once the negotiations are completed, the Council would then authorise the signature of the Agreement and request the consent of the European Parliament under Article 218(6)(a) TFEU. The Council may only adopt a final decision to conclude the agreement after it has obtained the consent of the European Parliament.
- d) The EU institutions may be monitored and evaluated by GRECO. However, the GRECO evaluation system should take into account the specific nature of the EU, as a Union based on

the principle of conferred competences, and its institutions, as well as the special features of EU law. The EU's rights and obligations in GRECO and the practical arrangements for its membership as a distinct legal entity, alongside all its Member States, should be clarified in advance in the Agreement on the modalities of membership.

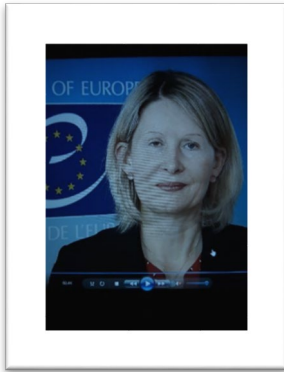
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BIOGRAPHIES OF SPEAKERS



Ms Hanne JUNCHER,
Executive Secretary of GRECO, Council of Europe

Hanne Juncher, Executive Secretary of GRECO (Group of States against Corruption) and Head of the Action against Crime Department, Directorate General of Human Rights and Rule of Law, Council of Europe.

Hanne previously headed the Council of Europe's work on justice and legal co-operation and as such was responsible for the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Councils of European Judges and Prosecutors (CCJE and CCPE), developing new standards in the areas of private and public law, and the Council of Europe's justice reform programmes. Prior to that she worked for the European Committee for the Prevention of Torture (CPT), in the field in the Western Balkans, and headed the Council of Europe's human rights support and awareness-raising work. Hanne has postgraduate degrees in law from Copenhagen and Essex Universities.



Olivier ONIDI,
Deputy General-Director, DG HOME, European Commission

Since May 2016, Olivier Onidi is Deputy Director-General of the Directorate-General for Migration and Home Affairs (DG HOME) at the European Commission with particular responsibility over security. In this capacity, he oversees the activities in the fields of terrorism and violent extremism, organized crime, cybersecurity, information systems and innovation. He also headed the Secretariat of the European Commission's Task Force for the Security Union. Since March 2020, he is also EU Anti-trafficking Coordinator.

His last assignment was Deputy Director-General of DG HOME with the specific task to coordinate the Commission-wide work related to the Central Mediterranean Route in the context of the refugees' crisis.

Previously, he was Director for the European Mobility Network within the Directorate-General for Mobility and Transport (DG MOVE), responsible for the development of the Trans-European Transport Network infrastructure, the implementation of the Connecting Europe Facility funding instrument and for the creation of a Single European Rail Area. Prior to this, he was Director for Innovative and Sustainable Mobility, in charge of transport security, clean and urban transport, intelligent transport systems and road safety.

Olivier Onidi also worked as Deputy Head of Cabinet of the Energy Commissioner, Mr Günther H. Oettinger, as Head of Unit for air transport services, aviation safety and environment and was Head of the Satellite Navigation System programme - GALILEO.

His first posts in the Commission were Assistant to Directors-General in the areas of Energy and Transport and External Relations. He then moved to the Secretariat General and afterwards became Member of Cabinet of the Commissioner for Research and Development, Innovation, Education and Training.

Before joining the Commission, Olivier Onidi worked as Adviser to the Executive Committee of Belgacom and as Public Policy Manager at American Express International.

Olivier Onidi holds Master degrees in International Economics, European Studies and Business Administration.



Mr Paul MAASSEN,
Chief Country Support, Open Government Partnership (OGP)

Paul Maassen started working with the Open Government Partnership in June 2012. He is currently the Chief, Country Support (CCS). The CCS leads on the implementation of the strategy for OGPs engagement with and strategic support of all OGP stakeholders at the national and local level. His team with staff in over 10 locations supports global efforts of open government champions, primarily of government and civil society, in using Open Government Partnership to further their objectives on transparency, accountability and participation. Before assuming this role Paul was responsible for overseeing the OGP support to civil society across the globe. Paul has a long track record in the role technology and media can play in changing people's lives and the societies they live in.

Prior to joining OGP Paul worked as Head of Finance and Partnerships for WWF International' Global Climate & Energy Initiative, working primarily with WWF offices in emerging economies to strengthen the design and sustainability of their programs. Before joining WWF Paul worked for 7 years with Dutch development organisation Hivos, as program manager for the global ICT & Media program. This is where he learned the ropes of being a funder and got a deep understanding of the complexities of realizing change in developing and repressive countries. Paul strongly believes in the potential of individuals to make a difference if they set their mind to it and get the tools – including technology – to realize their potential. He was also involved in the establishment of the East African citizen agency initiative Twaweza. Paul attained private sector experience with Dutch telecom company KPN. He holds an MSC in industrial engineering and management. Paul is based in Brussels. Paul can be reached at Paul.Maassen@opengovpartnership.org



Mr Mihkel ALLIK,

Member of the Legal Service, Unit for Institutional & Budgetary Law, European Parliament

Working experience:

- Member of the Legal Service, European Parliament, 2007 – Current
- Legal adviser, Senior legal advisor, Chancellor of Justice of Estonia, 2001-2007
- Head of Subcommittee, Estonian National Expert Committee on the EU law, 2004-2005
- Member of the Estonian Government Committee on anti-corruption, 2002-2003
- Analyst on anti-corruption, Security Police Board of Estonia, 1997-2001
- Musical Educator, Väikemõisa Orphanage, 1994-1995

Education:

- Magister iuris in international and European law, Tartu University, 2010
- Magister iuris in constitutional law, Tartu University, 2001
- Carl Robert Jakobson Secondary School, Viljandi, 1995
- Viljandi Music School, 1992

Languages:

Estonian, English, Russian, French

Hobbies:

Music, tournament bridge, table-tennis



Mr Marin MRČELA,
President of GRECO, Council of Europe

Justice Mrčela is the President of the Council of Europe's Group of States against Corruption (GRECO). In this capacity, he has promoted countering corruption through a multidisciplinary approach and has called upon Member States to put in place overarching integrity policies that cover all branches of power. Prior to becoming President of GRECO, Justice Mrčela was a longstanding member of its Bureau, where he took a decisive role in designing and pushing forward an evaluation of political financing in Europe and the United States of America.

Within Croatia, he has assumed various presidencies and memberships of key professional institutions, including the Association of Judges and the Academy of Legal Sciences. He has also served as a judge in war crime cases. Justice Mrčela was a Humbert Humphrey Fellow at the American University in Washington DC. He has given lectures on corruption and security topics at numerous universities and institutions around the world. He currently teaches at the Zagreb Faculty of Law, where he obtained his PhD. Justice Mrčela is the vice-President of the Supreme Court of Croatia.



Mr João ARSENIO DE OLIVEIRA,
*European Affairs Coordinator, Ministry of Justice,
Portuguese Presidency of the Council of the EU*

João Arsenio de Oliveira is the European Affairs Coordinator and Head of Department of the Office for International Affairs of the Portuguese Ministry of Justice and the Deputy Secretary-General of the Conference of Ministers of Justice of the Portuguese Speaking Countries (CMJPLOP).

During the Portuguese Presidency of the Council of the European Union he is in charge of the technical coordination of all the work carried out in the field of Justice. He chairs CATS, as well as the Senior Official Meetings with the United States of America and the Western Balkans.

He is the Chairman of the Steering Committee on Legal Co-operation (CDCJ) of the Council of Europe, as well as the Portuguese delegate at the European Commission for the Efficiency of Justice (CEPEJ) since 2004 and is currently Chairman of its Working Group on Quality of Justice (CEPEJ-GT-QUAL).

He was legal adviser to the Minister of Foreign Affairs. He has been working in international legal affairs for over two decades, namely with the European Union, the United Nations, the OECD and the Hague Conference on Private International Law.

Has a degree in Law and completed his Master's Degree in Law of the European Union.

PRESENTATIONS

Presentation by Mr Paul MAASSEN





Open Government Partnership

Multilateral + Multistakeholder

4500+ commitments

280+ action plans / 350 IRM reports

78 countries + 76 local governments / 3000+ civil society organisations

6.5% of commitments starred / strong results

Source: Vos iz Neils

3

OPEN GOVERNMENT PARTNERSHIP



The challenge: current global context

COVID 19/ crisis response

- + Recent numbers - \$11-\$14 trillion has been spent by countries on COVID19 recovery.
- + UNODC – 10-25% of a public contract's value may be lost to corruption, even prior to the pandemic.
- + **Corruption allegations across countries - role that anonymous companies have played including in money laundering schemes involving procurement.**

4

OPEN GOVERNMENT PARTNERSHIP



The challenge: Closing amid COVID-19

Emergency measures in response to the pandemic have affected various areas of open government, including civic space, right to information, government oversight, and inclusion among OGP members.

- + **16** members suspended or altered their RTI frameworks in 2020
- + **21** restricted freedom of expression
- + **8** have restricted media freedom
- + **26** using emergency powers include citizen surveillance method
- + **5** countries limiting legislative oversight
- + **6** countries propose discriminatory emergency measures
- + About a **fifth** are not regularly publishing testing data

5

OPEN GOVERNMENT PARTNERSHIP

Global & regional collective action on anti-corruption

Recent actions

- + FACTI panel recommendations
- + UNGASS & G7 Statement at UNGASS
- + Biden administration - National Security Study Memo
- + EU progress: 5th Anti-Money Laundering Directive, EU Whistleblowing Directive, momentum on lobbying transparency

6

OPEN GOVERNMENT PARTNERSHIP



Empowering Citizen Watchdogs

To amplify the voice of citizens in the procurement process, Ukraine launched DoZorro, a tool for identifying corruption risks.

Progress by OGP members

- | | |
|--|--|
| + 30 members advancing on Beneficial Ownership reforms | + 89 members advancing on Fiscal Transparency reforms |
| + 42 members advancing on Civic Space reforms | + 69 members advancing on Right to Information reforms |
| + 51 members advancing on Extractives reforms | + 62 members advancing on Justice reforms |
| + 41 members advancing on Gender reforms | + 37 members advancing on Open Contracting reforms |
| + 15 members advancing on Lobbying reforms | |



GRECO leadership & the EU

- + Importance of the interplay between global and regional norms - and country action
- + Council of Europe has been a key partner to OGP
- + GRECO have provided key strategic guidance and support to countries for anti-corruption reforms in their OGP action plans
- + GRECO recommendations have formed the basis of OGP commitments in several countries in Europe
- + EU to consider joining GRECO - will demonstrate leadership and commitment of the EU to the anti-corruption agenda



+ OPEN RENEWAL RECOVERY RESPONSE

Build Back Better

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Presentation by Mr Mihkel ALLIK

European Parliament Legal Service's opinion on the possibility for the European Union to join GRECO as a full member

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