

Strasbourg, 4 November 2016

Greco(2016)17

73rd GRECO Plenary Meeting
(Strasbourg, 17-21 October 2016)

SUMMARY REPORT

I. Opening of the meeting

1. The 73rd Plenary Meeting, held in Strasbourg on 17-21 October 2016 was chaired by Marin MRČELA, President of GRECO (Croatia), and by Christian MANQUET, Vice-President (Austria) for the examination and adoption of the Fourth Round Compliance Report on Croatia on Wednesday. The President opened the meeting by welcoming all participants, referring in particular to newly nominated Heads of delegation and representatives. The outgoing Head of Delegation of Ireland, Andrew MUNRO introduced his successor John GARRY and thanked the national delegations in GRECO and the secretariat for their support and professionalism over six years of work together.

2. The list of participants appears in Appendix I.

II. Adoption of the Agenda

3. The agenda was adopted as it appears in Appendix II.

III. Information Items

Director General, Human Rights and Rule of Law, Council of Europe

4. The Director General, Philippe BOILLAT informed the plenary that there would be an opportunity during the week to bid farewell to Wolfgang RAU who had retired in August after a long career at the Council of Europe and serving as GRECO's Executive Secretary for the last 12 years. Gianluca ESPOSITO, who had taken up the post of Executive Secretary in October, was introduced; he had a long experience of the Organisation which included active involvement in its anti-corruption standard-setting work and in the setting up of GRECO. Björn JANSON had been appointed to the new post of Deputy Executive Secretary. The Director General paid tribute to the secretariat for ensuring the continuity of operations and thanked the President and members of GRECO for their patience throughout the transition period.

5. The Director General expressed his keen interest in the decisions that GRECO would take – including the adoption of the evaluation questionnaire - when concluding the preparations for the Fifth Evaluation Round on *Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies*. The themes that will be the focus of that new Round to be launched in 2017 are central to the functioning of the State. The quality and accuracy of the reports that form the core work of the plenary are widely recognised within and outside the Organisation, and they are referred to by the Committee of Ministers, and by the Secretary General who raises follow-up to recommendations in his bilateral contacts with member States. The exchange of view that will be held during the present meeting with the European Ombudsman whose work ties in in many ways with that of GRECO is a concrete example of interaction with an important institution of the European Union.

President

6. The provisional order of business for the week was outlined by the President and delegations were invited to pay particular attention to the texts submitted by the Working Party responsible for preparing the Fifth Evaluation Round (WP-Eval V) which included the draft evaluation questionnaire scheduled for adoption at the present meeting (cf paragraphs 25-27).

7. After words of farewell to GRECO's former Executive Secretary, Wolfgang RAU, delivered by Jan KLEIJSEN, Director of the Information Society and Action against Crime Directorate, the President paid tribute to the invaluable support he had provided to the Presidency, the Plenary and the Bureau and his ability to always propose workable solutions to sometimes highly complex problems.

Expressing his gratitude, the President wished Wolfgang RAU a long and happy retirement and welcomed his successor Gianluca ESPOSITO.

Former Executive Secretary

8. Wolfgang RAU traced his career that started in the Council of Europe in 1989. His highly interesting and challenging work with GRECO had been very satisfying for a number of reasons; the very professional work done in the monitoring body and its many results on the ground, contributing to its expansion both in geographical and thematic terms, and the people involved. The two Presidents he had worked with, the Plenary and the Bureau had continually impressed him by their professionalism, their constructive attitude and their spirit of independence – an overall down to earth approach that has spared GRECO from political considerations and made it a very successful and respected international player. He also expressed how pleased he is that the Fourth Evaluation Round is a successful enterprise and that country delegations and the secretariat had been able to agree on content and scope for a new round that will be a logical and credible continuation of that work.

Executive Secretary

9. Reference was made to the 77th meeting of the Bureau, held in Strasbourg on 9 September 2016 (report: Greco(2016)15), in particular with respect to plans to organise a one-day high-level event to launch the Fifth Evaluation Round during the March 2017 Plenary Meeting, and a Training Seminar for Evaluators in the spring.

10. The secretariat had participated in the following events:

- Inter-secretariat Workshop on *Enhancing synergies and sharing best practices: international anti-corruption peer reviews* - an initiative of UNODC, organised by the OECD (Paris, 22-23 September 2016) (see also paragraphs 35-37);
- Enlarged Partial Agreement on Sport (EPAS) of the Council of Europe International Conference on the Promotion and Implementation of the Convention on the Manipulation of Sports Competitions (Strasbourg, 20-21 September)
- Joint Financial Action Task Force (FATF) / G20 Anti-Corruption Working Group (ACWG) Experts meeting on Corruption (Paris, 16 October) – that focused on transparency and beneficial ownership of legal persons, a topic high on the international agenda.

11. At the end of August, San Marino ratified the Criminal Law Convention on Corruption (ETS 173) and the Additional Protocol to that treaty (ETS 191) which have been ratified by 46 and 42 states respectively.

12. Regarding GRECO secretariat staff, the Executive Secretary hoped soon to be in a position to introduce the person who will take up Björn JANSON's previous post. In the interim, Louise RIONDEL-PEREZ is providing invaluable support to the secretariat until the end of the year. Roman CHLAPAK who has a number of years' experience in anti-corruption cooperation activities, both at headquarters and in the field, is currently replacing Liubov SAMOKHINA who has been seconded to the OECD since August. Ms Samokhina was present exceptionally during the present meeting in order to complete work on the Third Round Evaluation of Belarus. A call for candidates for secondment – a programme that creates important opportunities for close cooperation with officials from member States - to GRECO's secretariat, open to officials from all GRECO member States had been published ([Secondment to the Council of Europe](#)).

IV. Examination and adoption procedures

Evaluation procedures

13. The delegations of all GRECO member states that make up the Plenary reviewed the draft evaluation reports in a first reading that involved the participation of a delegation from the country concerned and the Evaluation Team that had carried out the on-site evaluation visit and contributed to the drawing up of the draft report. A second reading of revisions made in light of the first was carried out before the formal adoption of the texts.

Compliance procedures

14. In its compliance reports and *interim* compliance reports, GRECO pronounced itself on the level of compliance of member states with its recommendations. A Situation Report submitted by the authorities of a member provided the basis for the assessments made. Rapporteurs designated by two members were associated with the preparation of each draft compliance or *interim* compliance report tabled.

V. Fourth Evaluation Round

Prevention of corruption in respect of members of parliament, judges and prosecutors

Evaluation procedures

15. GRECO adopted Fourth Round Evaluation Reports on **Austria** (GrecoEval4Rep(2016)1 – publication pending) and **Italy** (GrecoEval4Rep(2016)2 – publication pending). The deadline of 30 April 2018 was set for the submission of Situation Reports on the measures taken to implement the recommendations addressed to those members.

Compliance procedure

16. The Fourth Round Compliance Report on **Croatia** (GrecoRC4(2016)5 – publication pending) was adopted and the deadline of 30 April 2018 was set for the submission of a Situation Report on further measures taken to implement GRECO's recommendations.

Rule 32 procedure – non-compliance

17. In the Fourth Round Compliance Report on **Belgium** (GrecoRC4(2016)9 – publication pending) GRECO concluded that the level of compliance with its recommendations was “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. Rule 32 is therefore applied and, pursuant to paragraph 2(i) of that rule, the authorities have been asked to provide a report on progress in implementing the recommendations by 31 October 2017 at the latest.

18. With the adoption of the *Interim* Fourth Round Compliance Report on the **Netherlands** (GrecoRC4(2016)10 – publication pending) GRECO discontinued the application of Rule 32 and has asked the authorities to submit, pursuant to Rule 31, paragraph 9 of the Rules of Procedure, additional information regarding action taken to implement certain recommendations by 31 July 2017.

VI. Third Evaluation Round

Theme I “Incriminations” / Theme II “Transparency of party funding”

Evaluation procedure

19. GRECO adopted the Third Round Evaluation Report on **Belarus** (GrecoEval3Rep(2016)3 – publication pending) and the deadline of 30 April 2018 was set for the submission of a Situation Report on the measures taken to implement the recommendations addressed to that member.

Compliance procedures

20. The 2nd Third Round Compliance Reports on **Monaco** (GrecoRC3(2016)4 – publication pending) and the **Russian Federation** (GrecoRC3(2016)9 – publication pending) were adopted and, in accordance with Rule 31, paragraph 9 of the Rules of Procedure, the authorities of those members are asked to provide additional information regarding the implementation of certain recommendations by 31 July 2017.

21. The examination of the 2nd Third Round Compliance Report on **Italy** (GrecoRC3(2016)13) was postponed to the next Plenary Meeting (GRECO 74, 28 November – 2 December 2016) as the late submission of relevant information by the authorities meant that it was not possible to make a sound assessment on the spot.

22. The examination of the Addendum to the 2nd Third Round Compliance Report on **Portugal** (GrecoRC3(2016)11) was also postponed to GRECO 74. GRECO asked the authorities of Portugal to send supporting information on the situation regarding the implementation of recommendations i, ii and iii, as well as any draft textual amendments to the draft Addendum by 4 November 2016.

VII. Publication, translation and availability of adopted reports (www.coe.int/greco)

23. The authorities of the members concerned are invited to authorise the publication of the reports adopted at the present meeting as soon as possible and, in that context, to adhere to the agreed action to be taken when publishing a report (GRECO 58, decision 26), in particular setting the publication date in consultation with the Secretariat.¹

24. Moreover, the President called on the authorities of Belarus to authorise, with no further delay, the publication of the reports indicated:

- Joint First and Second Round Evaluation Report (adopted June 2012), Compliance Report (adopted June 2014) and *Interim* Compliance Report (adopted June 2015), summaries of which had been published by GRECO pursuant to Rule 34, paragraph 2 of the Rules of Procedure on 3 February 2014, 27 May 2015 and 1 September 2016 respectively;
- 2nd Interim Joint First and Second Round Compliance Report (adopted in July 2016).

¹ GRECO asks its members to:

- agree a same-day publication date with the Secretariat
- clearly mark both the date of adoption and date of publication on the cover page
- make the national language version available and easily accessible on a domestic website
- notify the Secretariat of the location of the report by communicating the internet link to it
- include a link on the domestic website to the official language versions on GRECO's website.

VIII. Preparation of the Fifth Evaluation Round

Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies

Working party (WP-Eval V)

25. The Plenary examined the following documents submitted by the working party responsible for the preparation of the Fifth Evaluation Round:

- Report of the 2nd meeting (GrecoWP5(2016)4-rev)
- Draft Final Activity Report of the working party (GrecoWP5(2016)5-rev).

Questionnaire for the Fifth Evaluation Round and practical guidelines

26. GRECO adopted, with amendments, the Final Activity Report (GrecoWP5(2016)5-fin) which includes the Questionnaire for the Fifth Evaluation Round (issued separately in document Greco(2016)19), lists the reference texts, defines the scope and precise topics to be addressed, and provides guidelines for member States on the composition of national delegations, the role, profile and nomination of evaluators and the design of programmes for on-site visits².

27. Delegations are invited to each nominate up to five evaluators by 31 January 2017 so that the official list from which evaluation teams are to be constituted can be drawn up in good time.

Elections

28. GRECO will elect its President, Vice-President and Bureau members for the Fifth Evaluation Round at its 74th Plenary Meeting (Strasbourg, 28 November – 2 December 2016). Representatives of member States in GRECO are invited to inform the Executive Secretary in writing if they wish to stand for election/or to nominate candidates, preferably by 18 November 2016, it nevertheless being understood that, in accordance with the Rules of Procedure (Rule 5, paragraph 5), candidatures can be submitted up to 48 hours before the elections which will be held on Thursday, 1 December 2016. Each candidate will be asked to provide a very brief curriculum vitae.

IX. Exchange of Views – Emily O'REILLY, European Ombudsman

29. The European Ombudsman presented to the Plenary elements of her work, many of which tie in with the focus of GRECO's monitoring work (see presentation in Appendix III).

30. In the ensuing exchange of views, the issue of how accession of the EU to GRECO as a full member, which would involve participating in and being subject to evaluation, would be an opportunity to enhance the impact of anti-corruption efforts and strengthen public confidence in European institutions, was discussed.

31. On lobbying, the lack of a common approach among states was highlighted. Reference was made to a recent recommendation from the Parliamentary Assembly of the Council of Europe *Recommendation 2094 (2016) – "Transparency and openness in European institutions"* which calls on the Committee of Ministers to, among other things, finalise work on a legal instrument on the regulation of lobbying activities and to draft a comparative study and a regulatory impact analysis on the regulation of lobbying activities in Council of Europe member States.

² However, the Russian Federation does not approve the questionnaire and the other documents of the 5th evaluation round as it considers that the procedure of selection of public officials for the evaluation, not based on objective criteria and allowing for exclusion of heads of many states, is discriminating and non-transparent in its nature, and is subject to wide range of discretion, which undermines the core principle of equal treatment. In this regard the Russian Federation reserves the right to take appropriate measures in the future.

32. The President thanked Ms O'Reilly for this first exchange of views, highlighting the fact that her Office and GRECO can draw inspiration from each other's work and that there are good grounds for further exchanges and cooperation in the future.

X. Item 4 - Topical anti-corruption developments/events in member States

33. Under Item 4 of the Plenary's agendas, delegations are invited to share information outside the statutory evaluation and compliance reporting cycles. The information reported is summarised below. Due to a lack of available time, only one delegation shared news under this item.

Turkey

34. Information was shared concerning the sequence of events around the 15 July 2016 attempted coup and ongoing investigations. Copies of two publications: "The Terrorist Organization behind the 15 July 2016 coup attempt" issued by the General Prosecution Office of the Supreme Court of Appeal and a report "July 15: Gülenist coup attempt" issued by the DS Centre for Policy Studies of Turkey were also shared with the plenary. GRECO's President thanked the delegation of Turkey for the presentation.

XI. Miscellaneous

35. The Executive Secretary reported on the inter-secretariat workshop on *Enhancing synergies and sharing best practices: international anti-corruption peer reviews* organised by the OECD following an initiative by UNODC (Paris, 22-23 September 2016). It had been an intensive "crash course" on the similarities and differences in the *modus operandi* of the mechanisms, at which opportunities for improved coordination, consultation and participation in each other's work had been discussed. The structure of GRECO's monitoring process with its strict timelines and sustained rhythm was praised, and a number of the ideas for follow-up are already implemented by GRECO's secretariat, where, for example, individual staff members are responsible for closely following the work of other important anti-corruption actors.

36. Following a proposal by Vita HABJAN BARBORIČ, Head of Delegation (Slovenia), GRECO agreed to hold an exchange of views among GRECO representatives on their experience with international anti-corruption reviews during the 74th Plenary Meeting.

37. GRECO took note of a draft report entitled "Civil Society participation in the international meetings of anti-corruption review processes", prepared by Transparency International and shared for feedback with the Secretariats (UNODC, GRECO, OAS, OECD, UNODC) participating in the above event. GRECO delegations were invited to send any comments they wish to make on the draft report to the Secretariat by 28 October 2016.

38. In relation to GRECO's comments on *Recommendation 2094 (2016) on Transparency and openness in European Institutions addressed by the Parliamentary Assembly of the Council of Europe (PACE) to the Committee of Ministers* (finalised by the Bureau in September on behalf of GRECO following the written consultation of all GRECO delegations (Greco(2016)14-fin)), one delegation had proposed to suggest in GRECO's comments that the Parliamentary Assembly might consider carrying out similar work in its own assembly. That proposal had not been retained by the Bureau as the invitation by the Committee of Ministers was for comments on what it might do in response to the PACE recommendation and that in the context of such decision-making procedures the Committee of Ministers does not usually address, in turn, recommendations to PACE.

XII. Adoption of decisions

39. The decisions of the 74th Plenary Meeting were adopted as they appear in document Greco(2016)16.

XIII. Forthcoming meetings

40. The Bureau will hold its 78th meeting in Prague on 8 November 2016. GRECO's 74th Plenary Meeting will be held in Strasbourg on 28 November – 2 December 2016. Note was also taken of the dates for plenary meetings in 2017 that had been fixed bearing in mind a number of planning constraints in Strasbourg, including European Parliament sessions, and, to the extent possible, the timetable of other anti-corruption review bodies: GRECO 75, 20-24 March (including a one-day high-level event/ceremony to launch the Fifth Evaluation Round); GRECO 76, 19-23 June; GRECO 77, 16-20 October; GRECO 78, 4-8 December 2017.

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Apologised / excusée

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Apologised / excusée

**COUNCIL OF EUROPE DEVELOPMENT BANK /
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Apologised / excusée

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Apologised / excusées

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Apologised / excusée

**INTERNATIONAL ANTI-CORRUPTION ACADEMY /
L'ACADEMIE INTERNATIONALE DE LUTTE CONTRE LA CORRUPTION (IACA)**

Apologised / excusée

**ORGANIZATION OF AMERICAN STATES (OAS) /
ORGANISATION DES ETATS AMERICAINS (OEA)**

Apologised / excusée

EVALUATION TEAMS / EQUIPES D'EVALUATION

Third Round Evaluation Report on Belarus / Rapport d'Évaluation du Troisième sur le Belarus

Mr Anatoly Yakovlevich KAPUSTIN

Deputy Director, Institute of legislation and comparative law under the Government of the Russian Federation

Mr Flemming DENKER

Deputy State Prosecutor (Retired), State Prosecutor for Serious Economic Crime

M. Yves Marie DOUBLET

Directeur adjoint, Assemblée Nationale, Service des affaires juridiques

Division contrôle et études juridiques, Division de la Réglementation, du Contrôle et des Marchés

Ms Laura STEFAN – present(e) via video-conference

Rule of Law and Anticorruption Coordinator, Expert Forum (EFor)

Fourth Round Evaluation Report on Austria / Rapport d'Évaluation du Quatrième Cycle sur l'Autriche

Mr Rashad KURBANOV

Head of the Department of scientific support for the Secretariat of the Delegation of the Russian Federation to the European Commission for Democracy through Law (Venice Commission) at the Institute of Legislation and Comparative Law

Ms Birgit THOSTRUP CHRISTENSEN

Head of Legal Services Office in the Danish Parliament (Folketing)

Mrs Panagiota VATIKALOU

Investigative Judge on corruption cases, Court of First Instance of Chania

Ms Aneta ARNAUDOVSKA

Judge, Director of the Academy for Judges and Public Prosecutors, Member of the CCJE

Fourth Round Evaluation Report on Italy / Rapport d'Évaluation du Quatrième Cycle sur l'Italie

Mr Manuel ALBA NAVARRO

Clerk of Congress of Deputies, Congress of Deputies

Mr Stefan SINNER

Head of Division PM1, Remuneration of Parliamentarians, Administration of the *Bundestag*

Mr José Manuel Igreja MARTINS MATOS – **Apologised / Excusé**

Court of Appeal Judge, Vice President of the International Association of Judges and of the Ibero-American Group of the International Association of Judges

Mr Juraj NOVOKÝ

Prosecutor of the Special Prosecution Office, General Prosecution Office

RAPPORTEURS

Third Round / Troisième Cycle

2nd Compliance Reports / 2^e Rapports de Conformité

ITALY / ITALIE

Mr Christian MANQUET- Austria / *Autriche*

Mr Dušan DRAKIC - Montenegro / *Monténégro*

MONACO

Mr Eros GASPERONI - San Marino / *Saint-Marin*

Mme Agnès MAITREPIERRE - France

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Ms Lenka HABRNÁLOVÁ - Czech Republic / *République Tchèque*

Ms Vita HABJAN BARBORIČ - Slovenia / *Slovénie*

Addendum to the 2nd Compliance Report / Addendum au 2^e Rapport de Conformité

PORTUGAL

Mr Bart RUNNEBOOM – Netherlands / *Pays-Bas*

Mr Jean-Marc GUALANDI – Monaco

RAPPORTEURS

Fourth Round / Quatrième Cycle

Interim Compliance Report / Rapport de Conformité intérimaire

NETHERLANDS / PAYS-BAS

Mr Paulius GRICIUNAS - Lithuania / *Lituanie*

Ms Panagiota VATIKALOU - Greece / *Grèce*

Compliance Reports / Rapports de Conformité

BELGIUM / BELGIQUE

Mme Agnès MAITREPIERRE – France

M. Eric SENNA - Monaco

CROATIA / CROATIE

M. Eros GASPERONI - San Marino / *Saint-Marin*

Mr Alvis STRIKERIS - Latvia / *Lettonie*

EXCHANGE OF VIEWS / ECHANGE DE VUES

Ms Emily O'REILLY, European Ombudsman / *Médiatrice européenne*

Ms Zinovia ASSIMAKOPOULOU, Advisor, Cabinet of the European Ombudsman

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

M. Philippe BOILLAT, Director General, DGI - Human Rights and Rule of Law / *Directeur Général, DGI - Droits de l'Homme et Etat de Droit*

Mr Jan KLEIJSEN, Director, Information Society and Action against Crime Directorate / *Directeur, Direction de la Société de l'Information et de la lutte contre la criminalité*

Mr Gianluca ESPOSITO, Executive Secretary of GRECO / Secrétaire exécutif du GRECO

Ms Elspeth REILLY, Personal Assistant to the Executive Secretary / Assistante particulière du Secrétaire exécutif

Mr Björn JANSON, Deputy Executive Secretary / Secrétaire exécutif adjoint

Administrative Officers / Administrateurs

M. Christophe SPECKBACHER

Ms Laura SANZ-LEVIA

Mme Sophie MEUDAL-LEENDERS

Ms Liubov SAMOKHINA (temporarily seconded to the OECD)

Mr Michael JANSSEN

Mr Roman CHLAPAK

Mme Louise RIONDEL-PEREZ, Assistant Lawyer / *Juriste assistante*

Central Office / Bureau Central

Ms Penelope PREBENSEN, Administrative Assistant / *Assistante administrative*

Mme Laure PINCEMAILLE, Assistant / *Assistante*

Mme Marie-Rose PREVOST, Assistant / *Assistante*

Webmaster

Mme Simona GHITA, DG I - Human Rights and Rule of Law / *DG I – Droits de l'Homme et Etat de Droit*,

Mme Marie-Rose PREVOST, GRECO

Interpreters / Interprètes

Mme Sally BAILEY (17-18-19/10)

Mr Luke TILDEN (20-21/10)

M. Didier JUNGLING (20-21/10)

Mme Isabelle MARCHINI

Mme Christine TRAPP (17/10)

APPENDIX II

73rd GRECO PLENARY MEETING

Strasbourg, 17-21 October 2016
Agora, Room G3

AGENDA

73^{ème} REUNION PLENIERE DU GRECO

Strasbourg, 17-21 octobre 2016
Agora, Salle G3

ORDRE DU JOUR

1. Opening of the meeting	9.30 am	Ouverture de la réunion	09h30
2. Adoption of the agenda		Adoption de l'ordre du jour	
3. Information from the President and the Executive Secretary		Communication du Président et du Secrétaire Exécutif	
4. Topical anti-corruption developments/events in member states		Développements/événements anti-corruption d'actualité dans les états membres	
5. First reading <i>Evaluation Report – Third Round</i> Belarus Monday <i>Evaluation Report – Fourth Round</i> Italy Tuesday Austria Wednesday		Première lecture <i>Rapport d'Evaluation – Troisième Cycle</i> Bélarus lundi <i>Rapport d'Evaluation – Quatrième Cycle</i> Italie mardi Autrichemercredi	
6. Adoption 2 nd Compliance Report – Third Round Italy Monaco Russian Federation		Adoption 2 ^e Rapport de Conformité – Troisième Cycle Italie Monaco Fédération de Russie	
7. Adoption Addendum to 2 nd Compliance Report – Third Round Portugal		Adoption Addendum au 2 ^e Rapport de Conformité – Troisième Cycle Portugal	
8. Adoption <i>Interim Compliance Report – Fourth Round</i> Netherlands		Adoption Rapport de Conformité <i>intérimaire</i> – Quatrième Cycle Pays-Bas	
9. Adoption Compliance Report – Fourth Round Belgium Croatia		Adoption Rapport de Conformité – Quatrième Cycle Belgique Croatie	
10. Fifth Evaluation Round Examination and adoption of the documents prepared by the working party (WP-Eval V, 2 nd meeting, 28-29 September 2016)		Cinquième Cycle d'Evaluation Examen et adoption des documents préparés par le groupe de travail (WP-Eval V, 2 ^{ème} réunion, 28-29 septembre 2016)	
11. Fifth Evaluation Round Forthcoming elections: President, Vice-President and Bureau - preparation		Cinquième Cycle d'Evaluation Prochaines élections : Président, Vice-Président et Bureau - préparation	
12. Exchange of views Emily O'Reilly, European Ombudsman	Thursday, 3 pm	Echange de vues Emily O'Reilly, Médiatrice européenne	jeudi, 15h00

13. Second reading and adoption <i>Evaluation Report – Third Round</i> Belarus <i>Evaluation Report – Fourth Round</i> Italy Austria	Friday	Deuxième lecture et adoption <i>Rapport d’Evaluation – Troisième Cycle</i> Bélarus <i>Rapport d’Evaluation – Quatrième Cycle</i> Italie Autriche	vendredi
14. Miscellaneous		Divers	
15. Adoption of decisions		Adoption des décisions	
16. Dates of next meetings		Dates des prochaines réunions	
17. Close of the meeting	Friday, <u>12 noon</u>	Fin de la réunion	vendredi, <u>12h00</u>



Emily O'REILLY, European Ombudsman

**Council of Europe Group of States against Corruption (GRECO)
Plenary meeting, Strasbourg, 20 October 2016**

Ladies and gentlemen,

Thank you very much for the opportunity to present my work to you today. I have been following the work of Greco for many years through my former role as Irish Ombudsman and Freedom of Information Commissioner, and now as European Ombudsman. I commend and support the vital work you do. I believe that the fight against corruption is essentially a human rights issue and must continue to be mediated as such. As GRECO has said corruption at the level of a public administration is an insidious threat to both public and private interests.

My essential mission is *“to serve democracy by working with the institutions of the European Union to create a more effective, accountable, transparent and ethical administration”*.

Our primary function is to deal with complaints against the EU administration including every institutions, body, office and agency from the Commission to the administrative arm of the Court of Justice to the European Central Bank, the European Investment Banks and vital agencies that regulate medicines, chemicals and food safety.

Any citizen or resident of the EU, or business, association, or other body with a registered office in the EU, can lodge a complaint. It is not necessary to be directly affected by the alleged maladministration; many complaints come to us from civil society groups and NGOs that want to raise an issue of public interest.

As well as dealing with complaints, I can also conduct inquiries on my own initiative. When I was elected, I said that I would strategically use this power to investigate systemic problems in the EU administration and today, I will touch upon some of the issues I chose to focus on to promote integrity and ethical conduct within the EU institutions. I hope that you will find them of interest and relevance to your own work.

* * *

Strategic inquiry on Whistleblowing

One of the first strategic inquiries I launched concerned whistleblowing. Recent high-profile events across the globe have generated significant public interest in this issue but while the word conjures up deep political intrigue the day-to-day reality is often far removed from the drama of Julian Assange and Wikileaks and is much more mundane.

Experience suggests that what frequently motivates an individual to come forward is simple loyalty to the institution allied to deep frustration that their concerns are not being adequately dealt with by those in charge.

The challenge therefore for the EU institutions, and equally for national administrations, is to develop structures not only to protect people who, in good faith, speak up about serious irregularities, but also to ensure that the substance of their complaint is fully investigated and that they are kept informed of what action will be taken to rectify the situation. And it is a challenge because it forces institutions to set aside institutional self-interest and to make some brave moves, which may have significant consequences for individuals and for the institution itself.

Shortly after a new provision was introduced to the EU Staff Regulations, setting out a clear requirement for the EU Institutions to adopt internal rules to meet these challenges, I decided to inquire into the matter.

I asked nine EU institutions where they were in terms of the adoption of the internal rules. To lead by example, my office drew up our own internal whistleblowing rules and invited interested parties to comment. Our Staff Committee was closely involved in the drafting process and we consulted the European Data Protection Supervisory because of the obvious personal data implications for whistleblowers and persons implicated by their reporting.

Citizen trust in EU institutions cannot be achieved in an environment where those with information about fraud or corruption are afraid to speak up. By stating precisely what can be expected of staff at each stage of the process, and by training managers on how to properly deal with the reported information, each person in the chain is afforded both certainty and protection.

I am pleased to report that all nine institutions covered by my inquiry have now adopted or updated their whistleblowing rules.

* * *

EU's Anti-Corruption Report

That inquiry drew on findings in the EU's first Anti-Corruption Report. Like many others, I called on the Commission to include a chapter on the EU institutions in its second report. I understand that the second report will be issued soon but unfortunately without an EU chapter. It would be useful to hear your views on this as I can imagine that, once again, the European Parliament, Court of Auditors, civil society and others will publicly voice their disappointment with this situation.

* * *

Guidelines for public officials' interaction with interest representatives

Lobbying transparency is a big issue for my office. Lobbying is a vital part of our democracy, of our freedoms, of our right as citizens to make representations to those empowered to make vital decisions. But we also have the right and should have the freedom to be made aware of who is lobbying and to trust that it is done in a transparent and regulated way.

To reinforce this work I asked my national colleagues in the European Network of Ombudsmen, for an overview of how interaction between civil servants and interest representatives is regulated in their respective countries and whether there are relevant rules or practical guidance for public officials.

The results generally underscored the need to raise awareness of how lobbying operates and to find ways of improving its transparency and also reflected the variety of political and administrative traditions and cultures in Europe, which obviously shape public perceptions of lobbying and transparency.

In most countries, specific provisions regulating lobbying, coupled with guidance for public officials do not exist or that the interactions are indirectly touched upon in anticorruption, ethics or freedom of information legislation, as well as codes of conduct for public servants.

Some respondents noted that emphasis is put on ensuring that as many stakeholders as possible are involved and heard in the drafting of legislation. Others noted that lobbying regulation in their countries is insufficient. Systems similar to the EU Transparency Register for interest representatives are currently in operation at the national level in just two of the countries that responded (Ireland and Austria). Some respondents mentioned unsuccessful initiatives in this context or pending plans to consider establishing similar registers.

The responses have been summarised in a report and also discussed at a meeting of the European Network of Ombudsmen that I hosted earlier this year. We are now in the process of preparing a set of guidelines covering

public officials' interaction with interest representatives and will put a draft out for public comment which I hope you will find useful and relevant.

In this context, I understand that GRECO was consulted on the recommendation on the legal regulation of lobbying activities in the context of public decision-making that the Council of Europe's Committee on Legal Cooperation has been working on. My office had a meeting with Council of Europe staff about this and we look forward to reading the final product.

Revolving doors

Another complex challenge concerns the so called "revolving doors" phenomenon, when officials leave the service for the private sector (or vice versa) prompting a possible conflict of interest.

This issue goes to the heart of citizen trust in the public service and indeed even in the EU itself. Public trust can be undermined by perceptions that senior officials are influenced by potential future jobs or use inside information and former networks to benefit the private interests of a new employer.

Following a number of related complaints, I conducted an inquiry into how the European Commission manages potential conflicts of interest when EU officials leave for employment elsewhere. My recommendations resulted in a range of improvements, notably the publication by the Commission for the first time ever of the list of names of senior officials who left for new jobs with details of their move.

My most recent inquiry concerned a paid position held by a former EU Commissioner. I concluded that the Barroso Commission had failed adequately to deal with the former Commissioner's breach of the Commissioners' Code of Conduct despite concerns raised by the advisory committee that deals with these matters. I proposed that the Juncker Commission revise the Commissioners' Code of Conduct to include sanctions for any breach of obligations by a serving or former Commissioner.

I also dealt with the case of former Commission President Barroso's appointment to Goldman Sachs, a move which generated concern at a very challenging time for the EU and particularly in relation to citizen trust in its institutions. I wrote to President Juncker asking him to explain what measures the Commission has taken to check whether Mr Barroso's actions conform with ethics obligations in the Treaty and recommending, that he ask the Commission's Ad Hoc Ethical Committee for an opinion, which he has now done and which we await.

As regards your work, it would be of particular interest to me to know whether the regulation of the "revolving doors" practice is an issue that you intend to take into account in the context of your new evaluation round for 2017 on corruption prevention and promoting integrity in central governments (top executive posts) and law enforcement agencies.

* * *

To conclude, my job necessarily involves complaints and criticisms, but I can report nonetheless that the standards set by the EU administration often go beyond those of many EU Member States. And in my experience, EU officials are determined to act with integrity and in the public interest. EU staff were to the fore for example in calling for Commission action on the Barroso affair recognising that at a time when a contested EU faces so many challenges, it is imperative that those who lead demonstrate that their primary obligation is to the public interest.

I thank you again for the opportunity to talk to you about my work and I congratulate you on your own. It is work that I have drawn much inspiration from as an Ombudsman both in Ireland and now in the European Union.

* * *

Thank you for your attention.