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STUDY ON "PENAL AND ADMINISTRATIVE SANCTIONS, SETTLEMENT, WHISTLEBLOWING and CORPUS JURIS IN THE CANDIDATE COUNTRIES"

CONTENTS

<i>Peter Cullen and Judith Lenssen</i>	<i>page 1</i>
EDITORIAL	
<i>Christine Van den Wyngaert</i>	<i>page 2</i>
Final Report	
The Protection of the Financial Interests of the EU in the Candidate States.	
Perspectives on the Future of Judicial Integration in Europe.	
<i>Richard Crowe</i>	<i>page 60</i>
Case Law of the Community Courts	

Editorial Corpus Juris

Peter Cullen and Judith Lenssen, ERA, October 2001

It is a great pleasure to introduce readers of the FORUM to the main report of the project "Study on Penal and Administrative Sanctions, Settlement, Whistleblowing and Corpus Juris in the Candidate Countries" which we coordinated at the Academy of European Law from June 2000 until September 2001. The project received the financial support of the European Commission.

The main purpose of this study was to analyse to what extent the criminal justice systems of the candidate countries for European Union membership are geared up to deal with frauds against the Community budget (the compatibility issue). The two perspectives from which this question was approached were first, Community law and any other relevant European Union "acquis", and second, the "Corpus Juris".

The report we present here represents a synthesis of two sets of preparatory studies, by two groups of experts. One group came from the candidate countries of the central and eastern European states (with the exception of Latvia); the other was a group of "EU-experts", the majority of whom had participated in the two earlier Corpus Juris studies.

As the first part of the project, nine country reports were prepared by the experts from the candidate countries concerned. An EU-expert then took one chapter of each country report and analysed it under this specific subject heading. These subject headings are reflected in the structure of the final report, prepared by Christine van den Wyngaert of the University of Antwerp.

As well as being an analytical study, the report frames policy recommendations, including proposals for consideration by the Laeken summit. Specific changes to the national laws of the candidate states are recommended. The report also includes proposals to reform aspects of the Community's anti-fraud acquis. The experts reflected too on the Corpus Juris itself. The analysis section is not restricted to an examination of legal measures to tackle fraud on the Community budget but is more ambitious: at one and the same time, it challenges the coherence of the emerging "criminal law acquis" of the European Union and offers a new structure for this acquis. Furthermore, it places the existing institutional mechanisms for criminal justice co-operation under the microscope, arguing for example for a rethink of the role of EUROJUST.

At the seminar of 13-15 September which concluded the study, a "Declaration of Trier" was issued. This declaration, which found the support of all study participants, is appended to this editorial.

Declaration of Trier (15th of September, 2001)

A Common Legal Area for Fighting EU Frauds

We, the members of the study group "Penal and Administrative Sanctions, Settlement, Whistleblowing and Corpus Juris in the Candidate Countries", having studied the criminal justice systems of the Candidate Countries in the light of their proposed accession to the European Union, and following our meetings in the Academy of European Law in Trier in September 2000, March 2001 and now in September 2001, hereby declare:

EU fraud has never stopped at frontiers, but legal frontiers are an obstacle to fighting it. Enlargement on the basis of existing rules on legal frontiers brings the risk of making current problems worse.

The EU and the Candidate Countries studied have already made progress in fighting EU fraud. A number of legal instruments have been prepared. The European Anti-Fraud Office ("OLAF") has been created and is doing valuable work in co-operation with EUROPOL, EUROJUST and national authorities in the Member States and Candidate Countries.

However, we believe that in a Union composed of more than twenty Member States, the effective and proportionate protection of EU's financial interests will be impossible without a common legal area for fighting EU frauds, as proposed by our study and the previous Corpus Juris studies.

Such a legal area must protect human rights – in particular those guaranteed by the European Convention on Human Rights and the EU Charter of Fundamental Rights – to a level which is uniform, high and effective.

It is for the European Parliament and for national parliaments to play a leading role in the creation of such an area.

We therefore ask the European and national institutions, and more immediately the participants in the European Council summit in Laeken (December 2001), to receive and consider our report, to note our proposals and recommendations, and to take action accordingly. ■

The Protection of the Financial Interests of the EU in the Candidate States. Perspectives on the Future of Judicial Integration in Europe.

Christine Van den Wyngaert*

INTRODUCTORY CHAPTER	page 3
CHAPTER 1 – OFFENCES	page 5
a. Introduction	page 5
b. Comparative analysis candidate states	page 6
1. EC-fraud and assimilated offences	page 6
2. Market-rigging	page 7
3. Money laundering and receiving	page 7
4. Conspiracy and membership of a criminal organisation	page 8
5. Corruption	page 8
6. Misappropriation of funds	page 8
7. Abuse of office	page 9
8. Disclosure of professional secrets	page 9
9. Counterfeiting the Euro	page 9
c. Conclusions and recommendations	page 10

CHAPTER 2 – CRIMINAL RESPONSIBILITY	page 11
a. Introduction	page 11
b. Comparative analysis candidate states	page 11
1. Responsibility of natural persons	page 11
2. Responsibility of heads of businesses	page 12
3. Responsibility of organisations	page 13
4. Principle of culpability	page 13
5. Forms of criminal responsibility	page 14
6. Mistake	page 14
7. Attempts	page 15
c. Conclusions and recommendations	page 15

CHAPTER 3 - SANCTIONS	page 15
a. Introduction	page 15
b. Comparative analysis candidate states	page 15
1. Criminal and administrative sanctions	page 15
2. Sanctions against legal entities	page 16
3. Measurement of the sanction	page 16
4. Authority which supervises the sanctions	page 16
5. Penalties in the case of concurrent offences	page 16
c. Conclusions and recommendations	page 17

CHAPTER 4 – INVESTIGATION AND PROSECUTION	page 17
a. Introduction	page 17
b. Comparative analysis candidate states	page 17
1. Legal status and powers of investigative authorities	page 17
2. Powers of investigative authorities	page 18
3. Legal status of the public prosecutor	page 18
4. Tasks of the public prosecutor	page 19
5. Control of the decision to prosecute: decisions not to prosecute and committal proceedings	page 19
6. Investigating and prosecuting <i>Corpus Juris</i> crimes under the <i>Corpus Juris</i> rules: would candidate states be able to "receive" the <i>Corpus Juris</i> ?	page 20
c. Conclusions and recommendations	page 21

CHAPTER 5 – SETTLEMENT	page 23
a. Introduction	page 23
b. Comparative analysis candidate states	page 23
c. Conclusions and recommendations	page 24

CHAPTER 6 – PROCEDURAL RIGHTS	page 25
a. Introduction	page 25
b. Comparative analysis candidate states	page 25
1. Rights of the defence	page 25
2. Right to individual liberty	page 26
(i) Police arrest pending delivery of arrest warrant	page 26
(ii) Arrest warrants	page 27
(iii) Length of pre-trial detention	page 27
(iv) Judicial control of pre-trial detention	page 27
3. Right of victims to initiate proceedings	page 28
c. Conclusions and recommendations	page 28

CHAPTER 7 – EVIDENCE	page 28
a. Introduction	page 28
b. Comparative analysis candidate states	page 29
1. Powers of investigative authorities in the field of evidence gathering	page 29
(i) Questioning suspects	page 29
(ii) Requesting the defendant to produce documents	page 29
(iii) Questioning third parties	page 29
(iv) Searching property	page 30
(v) Requiring access to computers	page 30
(vi) Requiring banks to divulge details of customer's accounts	page 30
(vii) Telephone taps	page 30
2. Expert opinions by forensic accountancy experts	page 31

1 See the reports at: <http://www.era.int/domains/corpus-juris/public/index.htm>
Username: Corpusjuris, Codeword: 4DuraLexsedLex

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