



Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 21 October 2016
Publication: 09 November 2016

Public
GrecoRC4(2016)5

FOURTH EVALUATION ROUND

Corruption prevention in respect of members of
parliament, judges and prosecutors

COMPLIANCE REPORT

CROATIA

Adopted by GRECO at its 73rd Plenary Meeting
(Strasbourg, 17-21 October 2016)

F
O
U
R
T
H

E
V
A
L
U
A
T
I
O
N

R
O
U
N
D

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Croatia to implement the recommendations issued in the Fourth Round Evaluation Report on Croatia which was adopted at GRECO's 64th Plenary Meeting (16-20 June 2014) and made public on 25 June 2014, following authorisation by Croatia ([Greco Eval IV Rep \(2013\) 7E](#)). GRECO's Fourth Evaluation Round deals with "Corruption Prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of Croatia submitted a Situation Report on measures taken to implement the recommendations. This report was received on 31 December 2015 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected San Marino (with respect to parliamentary assemblies) and Latvia (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Eros GASPERONI, on behalf of San Marino and Alvis STRIKERIS, on behalf of Latvia. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

5. GRECO addressed 11 recommendations to Croatia in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendations i and iii.

6. *GRECO recommended:*

(i) that a code of conduct for members of Parliament be developed and adopted with the participation of MPs themselves and be made easily accessible to the public (comprising detailed guidance on e.g. prevention of conflicts of interest when developing the parliamentary function, ad-hoc disclosure and self-recusal possibilities with respect to specific conflict of interest situations, gifts and other advantages, third party contacts, deontology of dual mandate, etc.); (ii) that it be coupled with a credible supervision and enforcement mechanism (recommendation i); and

that efficient internal mechanisms be developed to promote, raise awareness and thereby safeguard integrity in Parliament, including on an individual basis (confidential counselling) and on an institutional level (training, institutional discussions on ethical issues related to parliamentary conduct, etc.) (recommendation iii).

7. The authorities of Croatia indicate that the Conflict of Interest Prevention Act, which covers public agents, including members of parliament, already includes some

provisions on ethical matters. Having said that, the authorities recognise that Parliament itself needs to take further action in this domain. More particularly, the drafting of a code of conduct is specifically envisaged in the Anti-Corruption Strategy 2015-2020, which set the last quarter of 2015 as implementation deadline. To this end, a discussion on ethical standards was initiated by the former legislature – with an ad-hoc working group meeting twice on 30 April and 9 July 2015, respectively. In April 2016, at a meeting with the Ministry of Justice, Parliament representatives confirmed their commitment to issuing an internal code of ethics; however, all plans have been put on hold until the elections of 11 September 2016.

8. GRECO takes note of the delay experienced in the adoption of a code of conduct for parliamentarians and the development of advisory, supervisory and enforcement arrangements thereafter. As the authorities themselves acknowledge in the Anti-Corruption Strategy, the adoption of ethical standards in-house constitutes a key instrument to foster a culture of integrity and increase public trust in the political system. GRECO, therefore, urges the authorities to take prompt action in this domain.
9. GRECO concludes that recommendations i and iii have not been implemented.

Recommendation ii.

10. *GRECO recommended (i) that the technical and personnel resources of the Commission for the Prevention of Conflicts of Interest be reassessed, and that measures be taken as necessary thereafter, with a view to ensuring their adequacy and effectiveness; (ii) that the Commission displays a more proactive approach in its preventive role with members of Parliament, notably by further developing communication and advisory channels with Parliament and, in close coordination with the latter, preparing tailored guidance on conflicts of interest that may emerge in carrying out parliamentary functions.*
11. The authorities of Croatia report that, in a context of economic recession, efforts have been made to increase the personnel resources (and the expertise) of the Commission for the Prevention of Conflicts of Interest, with the addition of five new permanent employees. Important steps have also been taken to improve the IT system of the Commission, e.g. computerisation of work processes enabling the tracking of a case and its deadlines, setting-up of a registry of officials, development of electronic forms with drop-down menus and tailored guidance for their completion, launching of a new website of the Commission. These are all crucial developments which have allowed for better comparability and supervision of declaration forms, including cross-checks with other databases (e.g. fiscal information), as well as swifter publication of asset declarations. Additional developments are planned, including the establishment of individual in-boxes for public officials, where they would be able to receive targeted notifications and guidance from the Commission.
12. As to the particular approach of the Commission vis-à-vis parliamentarians, the authorities provide figures on proceedings regarding conflicts of interest (five proceedings initiated in 2013, one of them ending with a decision on merits on a violation of the law; five violations found in 2014; and 10 violations found in 2015), as well as opinions issued to individual queries (14 opinions in 2013, 10 opinions in 2014 and six opinions in 2015). The Commission also refers to a particular situation of conflicts of interest arising in the framework of the selection of judges for the Constitutional Court (where three MPs were both evaluators and candidates in the selection process), which led, in May 2016, to the adoption of Guidelines and Instructions for the Prevention of Conflicts of Interest for that specific situation.

Furthermore, the Commission has initiated communication with MPs by sending personalised letters addressed to each member individually at the beginning of their mandate, in order to draw attention to the obligations arising from the Conflict of Interest Prevention Act.

13. GRECO welcomes the improvements reported to support the work of the Commission for the Prevention of Conflicts of Interest, which meet the concerns raised by the first part of the recommendation. Regarding the second part of the recommendation, GRECO welcomes the more proactive approach of the Commission in its communication with parliamentarians. That said, keeping in mind the deficient situation assessed in paragraph 8, GRECO deems it key that the Commission develops tailored guidance on conflicts of interest that may emerge in carrying out parliamentary functions; this is still a pending task. As the new legislature is formed, the formalised communication and advisory channels between the Commission and Parliament must be reactivated as a matter of priority.
14. GRECO concludes that recommendation ii has been partly implemented.

Corruption prevention in respect of members of judges

Recommendation iv.

15. *GRECO recommended that the Croatian authorities review the procedures of selection, appointment and mandate renewal of the President of the Supreme Court in order to increase their transparency and minimise risks of improper political influence.*
16. The authorities of Croatia indicate that a study has been commissioned in order to assess existing transparency shortcomings and potential risks of improper political influence in the procedures of selection, appointment and mandate renewal of the President of the Supreme Court. Further developments in this domain can only be expected upon the establishment of the new legislature, given the important role that Parliament plays in the appointment and dismissal process of the President of the Supreme Court¹. The authorities add that the content of this specific recommendation is to be discussed by the working group, which was established in March 2016 to draft the new Judiciary Act.
17. GRECO takes note of the preparatory work under way to implement this recommendation; however, given its very incipient phase, it can only conclude that recommendation iv has not been implemented.

Recommendation v.

18. *GRECO recommended that a study be carried out with the aim of better identifying and understanding the reasons for the high level of public distrust of the judicial system (judges and prosecutors).*
19. The authorities of Croatia make reference to World Bank financed research to sound out the reasons for public distrust in the Croatian judiciary; this research has been made upon initiative of the Ministry of Justice to address GRECO recommendations and was conducted in 2016. It included the following institutions of the judicial system: the Pula Municipal Court, the Pula County Court, the Split Municipal Court, the Karlovac Municipal Court, the Zadar Municipal Court, the County State

¹ The selection procedure of the President of the Supreme Court partly falls within the jurisdiction of the Croatian Parliament. In this connection, the President of the Supreme Court is elected and relieved of duty by the Parliament at the proposal of the President of the Republic, with the prior (non-binding) opinion of the General Session of the Supreme Court and the Judiciary Committee of the Parliament.

Attorney's Office in Pula, the Municipal State Attorney's Office in Pula, the County State Attorney's Office in Karlovac, the Municipal State Attorney's Office in Karlovac, the State Attorney's Office of the Republic of Croatia, the Office for Combating Corruption and Organized Crime (USKOK), and the Municipal Civil Court in Zagreb. The research shows that the problem of negative perception of the judicial system is expressed and manifested in the negative general opinion on the functioning of the judicial system, a low absolute and relative level of confidence in the judicial institutions (compared to, for example, the tax administration, customs, police and registry offices), and the low level of expectations of a fair trial. People see the long duration of proceedings and possible political influence as the main causes of the high perceived level of corruption. In addition to the long duration of proceedings (61%) and the possibility of political influence on judicial officials (56%), the possibility of bias and lack of objectivity of judicial officials (45%) is also stated as a cause of a high level of perceived corruption of the judiciary. Other causes of public distrust refer to, for example, lack of transparency of the judicial bodies, unethical behaviour of officials outside the courtroom, poor availability of asset declarations of judicial officials, the way media report on the work of the judiciary, etc. People's opinions regarding political influence on judges and prosecutors are divided: the same number (48%) think that they are mostly or completely independent as those who perceive them to be mainly lacking independence from political pressure in their work.

20. GRECO welcomes the action taken to meet this recommendation and is trustful that the reform of the judiciary in course will further assist in curbing negative perceptions and recasting citizens' trust in the justice system. GRECO is of the opinion that the implementation of its outstanding recommendations regarding judges and prosecutors can also positively contribute in this direction.
21. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

22. *GRECO recommended significantly strengthening and further developing mechanisms to provide guidance and counselling on ethics and the prevention of conflicts of interest for judges.*
23. The authorities of Croatia report on the reflection process that has taken place, within the judiciary itself, to upgrade its advisory framework for integrity matters. In this connection, and as programmed in the Anti-Corruption Strategy (2015-2020), Guidelines for the interpretation of ethical principles and the prevention of conflicts of interest were adopted on 4 February 2016. These guidelines, which are the result of a comprehensive and inclusive discussion process led by judicial councils throughout the national territory, provide inspiration to confront day to day ethical dilemmas shared by the profession. In the process of drafting the Guidelines, all presidents of the judicial councils were requested to submit information on pending disciplinary cases for ethical violations (unresolved cases carried on from 2014, cases received in 2015 and cases resolved in 2015). The authorities envisage further amendments to the Code of Judicial Ethics; this is currently an on-going project.
24. The inclusion of seminars on judicial integrity is now part of the in-service training curricula of both judges and prosecutors. In addition, and also as a formal commitment included in the Anti-Corruption Strategy (2015-2020), the Judicial Academy is securing funds to develop ad-hoc targeted educational activities regarding judicial ethics, including with neighbouring countries, e.g. a regional seminar was held in Cavtat in May 2015, with financial assistance from the Konrad Adenauer Foundation, under the direction of GRECO's President, the Head of the

Croatian Delegation to GRECO and other key law enforcement officials in Croatia; the seminar was attended by 19 participants (judges and prosecutors at central and municipal levels in Croatia, judges from Bosnia and Herzegovina, Montenegro, Serbia and the "former Yugoslav Republic of Macedonia").

25. GRECO welcomes the tangible measures taken to give effect to this recommendation and thereby strengthen available guidance to judges (and prosecutors) on professional ethics and the prevention of conflicts of interest. GRECO recalls the importance of keeping this matter under constant review to ensure its operability in practice.
26. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

27. *GRECO recommended that the authorities continue in their endeavours to strengthen the scrutiny of financial declaration forms.*
28. The authorities of Croatia state that steps have been taken to advance in technological options allowing for automated verification of financial declarations. The Anti-Corruption Strategy (2015-2020) foresees, *inter alia*, the establishment of an electronic database and a computer programme for processing financial declarations, strengthened cooperation with other authorities (concrete steps have already been set in motion to cross check information with tax authorities), and the development of electronic forms allowing for better systematisation and comparability of the information gathered. The Ministry of Justice is assisting both the State Judicial Council and the State Prosecutorial Council with their respective online platforms; likewise, the conceptualisation of the required IT system has drawn on the experience of the Commission for the Prevention of Conflicts of Interest (although in a more simplified tool).
29. GRECO is pleased to note the efforts being made by the authorities to substantially step up the scrutiny of financial declaration forms, including by taking on board the valuable experience gathered to date by the Commission for the Prevention of Conflicts of Interest. The technical arrangements necessary for the automated verification of data, as well as for better information exchange with other authorities, are currently under development. GRECO looks forward to further information on its material operability.
30. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

31. *GRECO recommended that a communication policy, including general standards and rules of conduct as to how to communicate with the press, is developed for the judicial system (judges and prosecutors) with the aim of enhancing transparency and accountability.*
32. The authorities of Croatia report on their plans to establish a working group tasked with the implementation of this recommendation, in particular, by looking into the following options: uniform handling and rules of conduct in the process of communication with the press, suitable format for courts and prosecution offices' websites aimed at maximising transparency, availability and timeliness of data, engagement of additional resources (including by taking a decision on the designation of professional spokespersons, or rather enhancing communication skills of current information officers). The working group is to be composed of representatives of the Supreme Court, the High Administrative Court, the High

Misdemeanour Court, the State Judicial Council, the State Prosecutorial Council, the Ministry of Justice and the Independent Service for Public Relations.

33. GRECO takes notes of the reported intention of the authorities which yet need to yield material results and concludes that recommendation viii has not been implemented.

Corruption prevention in respect of members of prosecutors

Recommendation ix.

34. *GRECO recommended that the Croatian authorities consider reviewing the procedures of selection, appointment and mandate renewal of the Prosecutor General in order to increase their transparency and minimise risks of improper political influence.*
35. The authorities of Croatia state that, in March 2016, a working group was set up by the Ministry of Justice to give effect to this recommendation. The aforementioned group (as attended by the Chairperson of the State Prosecutorial Council, deputies of the Prosecutor General and the Municipal Prosecutor and representatives of the Ministry of Justice), proposed, in the context of the on-going amendments to the Act on the Prosecutor General's Office, the following changes:
- regarding the selection and appointment procedure, the working group has proposed (i) to involve the State Prosecutorial Council in this process, and to clearly formulate in law how this involvement is to be articulated in practice; (ii) to specify in the law that the Prosecutor General can be elected exclusively from the ranks of public prosecutors and deputy prosecutors who meet the general and special requirements set for the Prosecutor General position. This measure is expected, in turn, to strengthen the role of the State Prosecutorial Council in the appointment process of the Prosecutor General, given that the former is the competent body for appointing public prosecutors and deputy prosecutors; and (iii) to increase transparency of the selection process by putting in place fixed deadlines, uniform/clear procedural stages and publication requirements (i.e. the appointment procedure of the Prosecutor General should be initiated no later than six months before his/her term expires. The State Prosecutorial Council announces a public call, establishes a list of candidates and submits this list, together with its opinions on each individual candidate to the Government);
 - regarding mandate renewal, the working group was of the opinion that it would be preferable to extend the term of office of the Prosecutor General (from four years to seven-nine years) and to make it non-renewable; however, such a change could prove to be extremely difficult since the Constitution specifically regulates the matter (Article 125, Constitution). Therefore, the proposed solution is to respect the four-year term of office set by the Constitution, but limit it to one renewal (at present, the law sets no limit to the renewal of mandates of the Prosecutor General).
36. The authorities reiterate, as was the case for recommendation iv regarding the President of the Supreme Court, that further developments in this domain can only be expected upon the establishment of the new legislature, given the important role that Parliament plays in the appointment process.
37. GRECO welcomes the attention paid by the authorities to the concerns raised by recommendation ix and encourages them to pursue the proposed reforms, which appear to be in the right direction, but still have some way to go and would, in any case, require further consideration once the new legislature takes office. As

mentioned before, the results of the recent research commissioned to sound out public attitudes vis-à-vis the judiciary (see paragraph 19), show signs of mistrust due to perceptions of improper political influence or pressure permeating justice. As GRECO already underscored in its Fourth Round Evaluation Report on Croatia, it is important that the method of selection, appointment and mandate renewal of the Prosecutor General is such as to gain the confidence of the public and the respect of the judiciary and the legal profession.

38. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

39. *GRECO recommended that further measures be taken to develop guidance and counselling for prosecutors on observing ethical principles in concrete situations.*
40. The authorities of Croatia highlight the revamped role of the Ethics Committee, which launched an internal reflection process on disciplinary cases for ethical violations, their causes and outcomes, by involving all prosecutorial offices in the country. As a result of the aforementioned exercise, Guidelines for the interpretation of fundamental ethical and deontological principles from the Code of Ethics of public prosecutors have been issued and distributed among the prosecution corps. Further measures were taken to provide targeted training on integrity matters (see paragraph 24 for further details).
41. GRECO is pleased to note that the Ethics Committee has now taken a more proactive role in this area. Likewise, the development of guidance drawing on the experience gathered to date and providing inspirational values for the profession, as well as the formalisation of a lifelong learning programme on integrity matters for prosecutors, can constitute most valuable measures for prosecutors facing ethical dilemmas in their daily work.
42. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

43. *GRECO recommended that the authorities continue in their endeavours to strengthen the scrutiny of prosecutors' financial declarations.*
44. The authorities of Croatia reiterate the measures already reported under recommendation vii (see paragraph 28) on the scrutiny of judges' financial declarations. Accordingly, measures are currently underway to develop software enabling the automated verification of data, as well as to provide for swifter information exchange and cross-checks with other relevant authorities (i.e. access to tax databases and real property registry of the Ministry of Justice; practice sharing with the Commission for the Prevention of Conflicts of Interest).
45. GRECO acknowledges the measures underway to strengthen the scrutiny of prosecutors' financial declarations, as a tool to prevent conflicts of interest, and looks forward to receiving additional information on their effective completion.
46. GRECO concludes that recommendation xi has been partly implemented.

III. CONCLUSIONS

47. **In view of the foregoing, GRECO concludes that three of the eleven recommendations contained in the Fourth Round Evaluation Report have been implemented satisfactorily by Croatia.** Four recommendations have been partly implemented; four recommendations have not been implemented.
48. More specifically, recommendations v, vi and x have been implemented satisfactorily. Recommendations ii, vii, ix and xi have been partly implemented. Lastly, recommendations i, iii, iv and viii have not been implemented.
49. GRECO is pleased to note that virtually all recommendations have been included as specific outputs of the current national Anti-Corruption Strategy (2015-2020). With respect to members of parliament, the political deadlock which followed the parliamentary elections held in November 2015, has delayed the adoption of an in-house code of conduct and its related implementation measures (enforcement, supervision and advisory mechanisms for integrity). The role of the Commission for the Prevention of Conflicts of Interest continues to be pivotal in supporting public agents' integrity, including parliamentarians; positive steps have been taken in recent years to improve its capacity through personnel and technical enhancements. Regarding the judiciary, legislative amendments must yet occur to address the recommendations issued by GRECO regarding the appointment processes of the President of the Supreme Court and the Prosecutor General and the need to strengthen their transparency and prevent risks of improper political influence. The results of the recent research carried out on the reasons for high levels of Croatian citizens' distrust in their judiciary, including perceived risks of political influence filtering the justice system, evidence the relevance of meeting these two recommendations. Similarly, it remains important that an effective communication policy for the judiciary is adopted as an additional tool to address the perception problem and to shore up the independence of the judicial branch against the other branches of government. On a more positive note, a reform is currently underway to improve the efficiency of courts and to reduce the length of proceedings. Likewise, targeted measures have been developed to further guidance and education on judicial ethics. Technical improvements are currently in the pipeline to strengthen the scrutiny of financial declarations of both judges and prosecutors. These are all encouraging signs some of which, nevertheless, still need to materialise in practice.
50. In view of the above, GRECO notes that in the current absence of final achievements in respect of a number of recommendations, further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months and, it would appear that substantial reforms are underway in respect of a number of the pending recommendations. GRECO invites the Head of delegation of Croatia to submit additional information regarding the implementation of recommendations i, ii, iii, iv, vii, viii, ix and xi by 30 April 2018.
51. Finally, GRECO invites the authorities of Croatia to translate the report into the national language and to make this translation public.