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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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

COMPLIANCE REPORT

ICELAND

Adopted by GRECO at its 67^h Plenary Meeting
(Strasbourg, 23-27 March 2015)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Iceland to implement the recommendations issued in the Fourth Round Evaluation Report on Iceland which was adopted at GRECO's 58th Plenary Meeting (18-22 March 2013) and made public on 28 March 2013, following authorisation by Iceland ([Greco Eval IV Rep \(2012\) 8E](#)). 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 Iceland submitted a Situation Report on measures taken to implement the recommendations. This report was received on 12 December 2014 and 3 February 2015 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Malta (with respect to parliamentary assemblies) and Norway (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Kevin VALLETTA, Office of the Attorney General, on behalf of Malta and Mr Atle ROALDSOY, Policy Director, Section for European and International Affairs, Ministry of Justice and Public Security, on behalf of Norway. 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 10 recommendations to Iceland in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendations i and ii.

6. *GRECO recommended*
 - *developing a code of conduct for members of the Althingi (MPs) and (ii) ensuring there is a mechanism both to promote the code and raise awareness among MPs on the standards expected of them, but also to enforce such standards where necessary (recommendation i);*
 - *that the Althingi introduce a requirement of ad hoc disclosure when, in the course of parliamentary proceedings, a conflict between the private interests of individual MPs may emerge in relation to the matter under consideration (recommendation ii).*
7. The authorities of Iceland state that work on a code of conduct has continued and a reviewed draft was sent to the parliamentary party groups for their consideration in the last quarter of 2014; it reportedly follows closely the Code of Conduct of Members of the Parliamentary Assembly of the Council of Europe, as adapted to the Althingi. The draft has been favourably received by the Speakers' Committee and

the respective parliamentary groups. Parliament has committed to adopting a code of conduct and it hopes to do so before the summer recess, by July 2015.

8. GRECO notes that work on a code of conduct was initiated in May 2012 and has been under consideration since then; GRECO regrets this slow progress. It would appear, from the information provided, that the Parliament is now committed to adopting the code of conduct for its members by July 2015. Given that the draft is still subject to discussion, that it will need to pass two readings in Parliament, and that GRECO has not been able to substantiate the content of the code and the way it will effectively meet recommendations i and ii, it seems premature to GRECO to make any sound judgement on compliance. GRECO urges the authorities to step up their action in this domain.
9. GRECO concludes that recommendations i and ii have not been implemented.

Recommendations iii and iv.

10. *GRECO recommended*
 - *that the existing registration system be further developed, in particular, (i) by including quantitative data of the financial assets/contributions received by MPs; (ii) by providing details of financial liabilities (i.e. debts) of MPs excluding reasonable house loans linked to ordinary market rates and minor loans not exceeding a reasonable limit; and (iii) by considering widening the scope of asset declarations to also include information on spouses and dependent family members - it being understood that such information would not necessarily need to be made public (recommendation iii);*
 - *that the Althingi strengthen the credibility of the registration system pertaining to MPs' declarations of financial interests by ensuring greater adherence to the rules through a system of monitoring, providing MPs with access to advice and guidance, and implementing a mechanism to sanction MPs who fail to meet the requirements on them (recommendation iv).*
11. The authorities of Iceland indicate that the rules on registration of members' financial interests are also undergoing review in the line of the recommendations made by GRECO. Contacts have been established with other Nordic parliaments to exchange views and experience on the aforementioned matters. The authorities, nevertheless, underscore that members are still much divided on the issue, especially as regards GRECO recommendations concerning the declaration of members' debts and financial information on spouses and dependent family members.
12. GRECO acknowledges the work in progress, but it regrets the lack of concrete output to further develop, and thereby strengthen, the registration system pertaining to MPs' declarations of financial interests. It is disappointing that out of the recommendations issued by GRECO, which were ultimately aimed at providing the Althingi with tools to increase public confidence in the institution, none has been met in the two years that have elapsed since the Fourth Round Evaluation Report.
13. GRECO concludes that recommendations iii and iv have not been implemented.

Recommendation v.

14. *GRECO recommended reviewing the present situation concerning election, nomination and appointment procedures of (i) members of the Labour Court (and more particularly the persons nominated by the Supreme Court) and (ii) experts to the bench, in order to ensure that those procedures are vested with appropriate guarantees of independence, impartiality and transparency.*
15. The authorities of Iceland report that the Ministry's Special Committee on Procedural Law has been given the task of reviewing the rules on lay judges (experts to the bench). Likewise, the Ministry of Welfare has been informed of GRECO's recommendation regarding election, nomination and appointment procedures of members of the Labour Court.
16. GRECO does not see any noticeable improvement regarding the guarantees of independence, impartiality and transparency applicable to the election, nomination and appointment procedures of members of the Labour Court and experts to the bench.
17. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

18. *GRECO recommended that (i) a set of standards of professional conduct, accompanied by explanatory comments and/or practical examples, be adopted for the judiciary and be made public; (ii) judges are provided with appropriate training and counselling services on ethics, integrity and the prevention of conflicts of interest.*
19. The authorities of Iceland highlight that the Judicial Council approved, on 14 February 2014, a Code of Conduct for employees of the district courts in Iceland, which has reportedly been promoted. Subsequently, the Icelandic Association of Judges agreed to take into consideration the adoption of a code of conduct for judges. The Association has been working on the matter for the past few months.
20. In 2014, on the basis of a needs-assessment analysis, the Judicial Council also approved a continuous educational plan and a career development plan for judges and other university educated staff of the courts. An Expert Council, composed of judges, is now responsible for organising courses in cooperation with the Judicial Council. Initial training courses have also been developed for newly appointed judges and law clerks. However, the Judicial Council has not held any specific course on ethics, integrity and the prevention of conflicts of interest as yet.
21. The authorities add that public opinion polls have shown that only about 30% of the Icelandic public expresses confidence in the judicial system as a whole. The Judicial Council has therefore welcomed GRECO recommendations, building upon them and taking them into consideration and has been taking steps towards improvements in this regard. More particularly, in 2014, the Judicial Council has taken targeted measures to build up trust in the judiciary, including by improving communication with the media (i.e. the Judicial Council held a meeting with representatives of the media to introduce the work of the judiciary and inform them of a newly appointed contact person to the media for the districts courts) and by holding "open doors" events in three different district courts.

22. GRECO takes note of the initiatives reported to develop public communication activities. GRECO also notes the plans reported to further reflect on professional and deontological standards, as well as to introduce career-enhancement plans. This is all work in progress; therefore, GRECO awaits additional information as to the adoption of a code of conduct for judges, coupled with appropriate guidance and counselling on its application. Much more needs to be done in this respect.
23. GRECO concludes that recommendation vi has not been implemented.

Corruption prevention in respect of prosecutors

Recommendation vii.

24. *GRECO recommended that measures be taken to ensure security of tenure for all prosecutors.*
25. The authorities of Iceland report that, since the implementation of this recommendation requires amendments to the law, a Special Committee on Procedural Law, under the aegis of the Ministry of the Interior, was established in order to review the rules on appointment of prosecutors in light of GRECO's recommendation.
26. GRECO considers that Iceland is still at the very early stages of implementation of this recommendation; the envisaged legislative amendments, which would reportedly guarantee security of tenure for all prosecutors, have not even been drafted.
27. GRECO concludes that recommendation vii has not been implemented.

Recommendations viii and ix.

28. *GRECO recommended*
- *introducing a possibility to appeal the decisions taken by a prosecutor during the preliminary investigative phase (recommendation viii);*
 - *that a system be introduced to enable greater independence and impartiality of the prosecutorial decisions taken at district level (recommendation ix).*
29. The authorities of Iceland report that, in 2012 and 2013, two separate committees were created to make proposals on how to improve the prosecution of economic crime and, more generally, on changes to the whole prosecutorial system in Iceland. As a result, a Bill amending the Law on Criminal Procedure has been tabled before Parliament and is currently undergoing consultation; it is expected to be adopted by July 2015.
30. More particularly, the Bill proposes a two layer prosecutorial system in Iceland. The system is to be as follows: the nine police commissioners will continue to be responsible for prosecuting minor offences, as they have done for several years now. A new organ will be established: a so called district prosecutor. Both the police commissioners and the district prosecutors will be first tier prosecutors. The Office of the Director of Public Prosecutions (DPP) will be the second tier. All decisions made at first tier, by either police commissioners or district prosecutors can be appealed to the DPP. This is the most important change proposed by the Bill, geared at improving the independence and impartiality of the whole prosecutorial system, as well as ensuring better quality and legal security for the public. With this proposed change, the supervisory and monitoring authority of the

DPP will be greatly strengthened. When the Bill is approved, the DPP will also have much more flexibility to issue general guidelines for first tier prosecutors, ensuring coordination and quality within the prosecutorial system. The vast majority of offences for which the DPP and the Special Prosecutor have been responsible since 2009, will be after approval of the Bill within the responsibility of the district prosecutor, whose decisions can then be appealed to the DPP. The tasks of the Special Prosecutor will be moved to the new district prosecutor and the Special Prosecutor will cease to exist¹.

31. Furthermore, in January 2015, a reorganisation of the system of police districts and local governors was effected - the aim reportedly being to make districts bigger and better equipped to fulfil their tasks. In particular, the number of local governors has been brought down from 24 to 9; and police districts are now 9, instead of the former 15. The first step towards strengthening the police districts was the separation of local governors and police commissioners. This was primarily done to put more focus on police matters and to make a clearer distinction between the roles of the governor and police, although the policy areas of the two are quite different.
32. GRECO welcomes the initiatives reported to tackle the recommendations made geared towards reinforcing the prosecution system. GRECO awaits further details concerning adoption of the Bill amending the Law on Criminal Procedure which proposes significant changes in this area.
33. GRECO concludes that recommendations viii and ix have been partly implemented.

Recommendation x.

34. *GRECO recommended that prosecutors are provided with appropriate training (dedicated courses and practical examples) and counselling services on ethics, integrity and the prevention of conflicts of interest; and (ii) as a result of, and in connection with, the experience gained in these areas that consideration is paid to further tailoring/updating the applicable deontological standards in the profession.*
35. The authorities of Iceland underscore that steps have been taken to improve educational and training opportunities for prosecutors, in line with the different recommendations received from GRECO, the OECD Working Group on Bribery and the FATF. Training courses for prosecutors and police officers regarding bribery, corruption and money laundering investigative measures are scheduled to be held in spring 2015.
36. GRECO recommended the development of dedicated courses and counselling services on ethics, integrity and the prevention of conflicts of interest, which would open up regular in-service avenues for discussing these important matters. Throughout the Fourth Evaluation Round Report, GRECO explained why these matters, in the particular context of Iceland, merit further discussion and the development of more targeted preventive actions. The training plans reported do not appear to meet in substance recommendation x.
37. GRECO concludes that recommendation x has not been implemented.

¹ The Office of the Special Prosecutor was established in 2009 to investigate suspicions of criminal actions in the period preceding, in connection with, or in the wake of, the collapse of the Icelandic banks, whether these related to the activities of financial undertakings, other legal entities or individuals. It was also entrusted to provide follow-up to the aforementioned investigations by bringing charges in court against those concerned.

III. CONCLUSIONS

38. **In view of the foregoing, GRECO concludes that none of the ten recommendations contained in the Fourth Round Evaluation Report has been satisfactorily implemented or dealt with in a satisfactory manner by Iceland.** Two recommendations have been partly implemented; eight recommendations have not been implemented.
39. More specifically, recommendations viii and ix have been partly implemented, recommendations i, ii, iii, iv, v, vi, vii and x have not been implemented.
40. With respect to members of parliament, work on a code of conduct for the Althingi is in progress, but this has been the case since 2012. Three years have elapsed since then and a code of conduct is not yet in place. No new developments have been reported as to additional improvements to strengthen the transparency, efficacy and credibility of the existing registration system. Due to declining levels of public trust in the judiciary, work is in progress within the profession to further develop public communication activities. Much more needs to be done to reflect on professional and deontological standards, and to introduce career-enhancement plans. With regard to the prosecution service, a reorganisation of the system of police districts and local governors took place in January 2015. A Bill amending the Law on Criminal Procedure, which introduces *inter alia* a two tier prosecution system, awaits adoption. These measures are geared towards increasing independence and impartiality of prosecutorial decisions taken at district level, including by introducing appeal channels. Additional efforts were required by GRECO to ensure security of tenure for all prosecutors and to better guide them when confronted with conflicts of interest (i.e. deontological standards, training and counselling).
41. In view of the above, GRECO considers that the action taken by the Icelandic authorities to meet the recommendations issued in the Fourth Evaluation Round has been rather limited. It concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of delegation of Iceland to provide a report on the progress in implementing the outstanding recommendations (i.e. all recommendations) as soon as possible; however – at the latest – by 30 September 2015.
42. Finally, GRECO invites the authorities of Iceland to translate the report into the national language and to make this translation public.