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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

### ESTONIA

Adopted by GRECO at its 67<sup>th</sup> 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 Estonia to implement the recommendations issued in the Fourth Round Evaluation Report on Estonia which was adopted at GRECO's 58<sup>th</sup> Plenary Meeting (7 December 2012) and made public on 8 January 2013, following authorisation by Estonia ([Greco Eval IV Rep \(2012\) 5E](#)). 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 Estonia submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 September 2014 (and further updated on 5 January 2015 and 14 March) and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Finland and Hungary to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mrs Marja TUOKILA, on behalf of Finland and Mrs Nóra BAUS on behalf of Hungary. 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.
5. 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**

6. GRECO addressed 19 recommendations to Estonia in its Evaluation Report. Compliance with these recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

#### **Recommendation i.**

7. *GRECO recommended the introduction of rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process.*
8. The authorities indicate that the Anti-Corruption Select Committee has drawn up a draft document on how members of Parliament engage with lobbyists. It was subsequently sent in June 2014 to the board of the Riigikogu (which is the Estonian denomination of the national parliament). The process is still on-going in Parliament and work will resume under the forthcoming legislature with a new composition of Parliament which will take up its duties in the second half of March or in April 2015. The Estonian authorities explain that the future guidelines would be a non-binding document setting rules both for third parties and for MPs, and that as far as the latter are concerned, these rules will be similar to those contained in the Code of conduct adopted in December 2014 (see recommendation ii below). The authorities point out that several rules contained in the Code are relevant for the management of relations with third parties and lobbyists, for instance the general rules concerning honesty and the preservation of the general interest, the need to disclose if necessary the parties involved in making a decision, the need to explain the background of choices and decisions.

9. GRECO takes note of the drafting process going on to address the present recommendation. It encourages the Parliament to finalise or resume – as the case may be – the work undertaken for the drafting of rules on relations with third parties and lobbyists, which was undertaken in June 2014. The rules contained in the Code of conduct adopted recently are also a step in the right direction. But GRECO would prefer to see these complemented by more specific provisions addressing for instance the systematic disclosure of who and when relations or contacts take place, situations where contacts or possible support would be (in)appropriate, participation in events organised by lobbyists and so on. GRECO concludes that recommendation i has been partly implemented.

**Recommendation ii.**

10. *GRECO recommended that (i) a Code of Conduct for members of Parliament be elaborated; and (ii) in order for the provisions of the Code to be effectively applied in practice, an efficient mechanism of supervision and sanction, which takes into account the specific nature of the parliamentary mandate, be established.*
11. The authorities report that in 2012 a working group composed of members of parliament (MPs) from each political group was set-up to draft a code of conduct for MPs. On 17 June 2014, the draft was finalised, together with a draft law to amend the Status of Member of Parliament Act (SMPA). After it was approved by the Council of Elders of the Riigikogu, the Code was finally adopted on 17 December 2014. The English equivalent of the Code's title is "Good practices of the Riigikogu". It contains a series of general principles as well as a set of specific provisions on gifts and conflicts of interest, among others. As for the second part of the recommendation specifically, the Code provides for a mechanism to deal with cases of non-compliance with the Code; these are examined by the Anti-Corruption Select Committee, the role of which is also increased in respect of confidential counselling (see also recommendation vii hereinafter).
12. GRECO takes note of the above and appreciates the fact that an English translation of the Code of conduct was made available by the Estonian authorities. The Code takes the form of a two page document drafted in a format easy to read and composed of 17 bullet points. 15 of these refer to obligations of the MPs<sup>1</sup>, the last two ones refer on the one hand to the need for MPs to "make all efforts to act in good faith in compliance with the Code", and on the other hand to advisory and dispute-related matters including the role of the select committee:

*16<sup>th</sup> bullet of the Code of conduct for MPs*

*"A member of the Riigikogu has the right to ask for advice from the Anti-Corruption Select Committee of the Riigikogu in matters included in the Select Committee's competence. A member of the Riigikogu shall discuss other disputed matters inside his or her political fraction. The Select Committee shall also address cases in its competence that raise doubt of whether a member of the Riigikogu has acted appropriately and in compliance with the Code of Conduct of Members of the Riigikogu."*

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<sup>1</sup> These concern both a) general principles such as the duty for MPs to be guided by the interests of the people and the country (first bullet), to adopt clear and reasoned views (10<sup>th</sup> bullet), not making promises that one has no competence to fulfil (15<sup>th</sup> bullet) and b) principles which are specifically related to integrity: not undertaking obligations which could cast doubts on the MP's honesty (third bullet), avoiding situations which could cast doubts on the impartiality of the MP's decision (fourth bullet), refraining from accepting higher than usual hospitality which could cast doubts on the MP's honesty, fairness and impartiality and may cause a conflict between official duties and private interests (fifth bullet), prohibition of gifts or services – in connection to the duties performed as an MP – exceeding the limits of usual politeness unless they comply with generally accepted diplomatic or international practices or are donations permitted by law (sixth bullet), obligation to use State property prudently and purposefully (eighth bullet), duty to avoid conflicts of interest arising in the course of parliamentary work and to disclose such occurrences prior to discussing the matter concerned (ninth bullet), prohibition to disclose sensitive information or to use it for personal gain or to the benefit of others (14<sup>th</sup> bullet).

13. The above code takes into account (and is not limited to) integrity issues and it addresses broadly the concerns expressed in the Evaluation Report in relation to the absence of rules of conduct: Estonia has thus positively responded to the first part of the recommendation. As for the second part of the recommendation, the information submitted by Estonia is not specific and detailed enough for GRECO to conclude that an efficient mechanism of supervision and sanction has been established. Neither does the webpage of the Estonian parliament on the Anti-Corruption Select Committee<sup>2</sup> provide any meaningful clarification on the actual competence of the Committee (whether it is competent to ensure compliance with the Code in its entirety), the powers at its disposal, the sanctions applicable to MPs who do not comply with the Code etc. In their latest comments, the Estonian authorities indicate that the purpose of the Code is not to lead to sanctions. Additional measures would require legislative changes as the Board of Parliament has no competence to establish enforcement mechanisms. They point out that in any event, corruption-related acts fall under the competence of the criminal justice bodies. GRECO recalls that one of the purposes of preventive standards and measures is to address situations which can involve a risk of corruption or do not (yet) constitute a criminal offence. Many European countries have measures in place to ensure the parliament's internal discipline and compliance with professional standards (for example warnings, suspension of certain rights or benefits, exclusion from committees, naming and shaming); GRECO cannot see why this kind of measures cannot be applied in Estonia as well. Estonia thus needs to pursue its efforts in the area of supervision and sanctions to ensure that MPs comply with the newly adopted Code.

14. GRECO concludes that recommendation ii has been partly implemented.

### **Recommendation iii.**

15. *GRECO recommended that (i) the existing conflicts of interest regulations be made applicable to members of Parliament and subject to effective supervision; and (ii) detailed guidelines be developed within Parliament containing practical examples of conflicts of interest which are or may be encountered by members of Parliament, including those arising specifically from pecuniary interests.*

16. The authorities, on the first part of the recommendation, point out that the new Anti-Corruption Act (ACA) came into force in April 2013 and that further amendments are needed to address the various issues raised by the Act. This will be done with a single amending law which is expected to be discussed and adopted in 2015.

17. As for the second part of the recommendation, the authorities indicate that the Anti-Corruption Select Committee has prepared a document consisting of practical examples of situations involving the acceptance of gifts and conflicts of interest. This document, which can be seen as equivalent to a manual on the prevention of conflicts of interest, was sent to the Board of the Riigikogu on 27 June 2014 for discussion and it was published on 13 March 2015<sup>3</sup>.

18. Moreover, the Code of Conduct mentioned under recommendation ii above (paragraph 10 et seq.) states under the ninth bullet that: "*A member of the Riigikogu shall not let his or her personal interests affect his or her official duties. If [s/he] has personal interests related to a draft act or decision to be adopted and those interests are not listed in his or her declaration of economic interests but may*

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<sup>2</sup> [http://www.riigikogu.ee/index.php?id=42700&parent\\_id=34615](http://www.riigikogu.ee/index.php?id=42700&parent_id=34615)

<sup>3</sup> [http://www.riigikogu.ee/public/Riigikogu/Dokumendid/Hea\\_tava\\_kaasusedET.pdf](http://www.riigikogu.ee/public/Riigikogu/Dokumendid/Hea_tava_kaasusedET.pdf)

*cast doubt on his or her objectivity, [s/he] shall disclose those interests before the discussion."*

19. GRECO takes note of the above. On the first part of the recommendation, it recalls that the Evaluation Report had taken into consideration the content of the then bill providing for a new Anti-Corruption Act (ACA). GRECO was concerned that *the revised provisions will continue to have a limited application in respect of members of Parliament, that the new definition of a procedural restriction is so broad that it may be rarely applied in practice and that the new ACA does not explicitly stipulate whether a person or a legal entity with whom an official has a private business relationship should be regarded as a "connected person" for the purposes of the ACA.* Estonia now indicates that the ACA will be amended in 2015 to address those issues but for the time being no tangible measures have been taken. As for the second part of the recommendation, a document providing guidance was published on 13 March 2015. The five-page document contains a series of examples of situations and the conduct expected in each case: informing the committee, advisability of not participating in the vote, refraining from entering into a contract, possibility to accept the offer or benefit/gift and so on, as the case may be. GRECO is pleased to see that this part of the recommendation has thus been addressed.
20. GRECO concludes that recommendation iii has been partly implemented.

#### **Recommendation iv.**

21. *GRECO recommended in order to clarify and facilitate the implementation of relevant provisions of the Anti-Corruption Act, that internal rules and guidance be provided within Parliament on the acceptance of gifts, hospitality and other advantages and compliance by parliamentarians with the aforementioned rules be properly monitored.*
22. The authorities refer to the information supplied in respect of the second part of recommendation iii discussed above (paragraph 15 et seq). As it was indicated, the guidance document published on 13 March contains practical examples of situations involving the acceptance of gifts and conflicts of interest and it should be seen as a manual. Moreover, the Anti-Corruption Select Committee has prepared a draft document which outlines basic rules for receiving gifts/hospitality or other benefits: distinction between personal gifts and gifts for the institution, the need to inform, whom to inform and so on. This draft still needs to be approved by the Board of Parliament. In order to keep the content pertinent given the variety of possible situations that may arise in practice, the Anti-Corruption Select Committee is planning to conduct a survey extending to the members of the Riigikogu as well as the structural units (the officials of standing committees) and the management of the Chancellery.
23. GRECO first of all recalls that this recommendation was addressed to Estonia given a series of issues raised by Section 26 (2) of the Anti-Corruption Act (ACA) in force at the time of the on-site visit<sup>4</sup> and in planned amendments (see paragraphs 48

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<sup>4</sup> For the sake of clarity, the text of the provision - as it appears in the replies to the questionnaire - is quoted here:

**§ 26** of the Anti-Corruption Act in force at the time of the evaluation.

#### **Restriction on acceptance of gifts**

(1) An official shall not solicit, in connection with his or her duties of employment, gifts or other benefits made or granted by persons to him or her, his or her close relatives or close relatives by marriage.

(2) An official shall not accept gifts or consent to the benefits which are made or granted to him or her, his or her close relatives or close relatives by marriage, and the acceptance of which may directly or indirectly influence the impartial performance of his or her duties of employment or service.

and 49 of the Evaluation Report). In particular, interviews had showed that the wording was criticised for its ambivalence and for leaving too much room to discretionary interpretation.

24. Having this in mind, GRECO takes note of the information provided by Estonia on the recently adopted document containing examples of situations and on the drafting of internal rules on gifts. This project still needs to be finalised and GRECO will need to re-examine the content of these rules when once they are adopted and become available in English
25. GRECO also notes a series of changes that the authorities do not refer to. First of all – see recommendation ii and footnote 1 above – the Code of conduct for MPs adopted in December 2014 contains certain restrictions on the acceptance of hospitality, gifts or services (5<sup>th</sup> and 6<sup>th</sup> item of the Code):

- *A member of the Riigikogu shall refrain from accepting higher than usual hospitality that may cast doubt on his or her honesty, fairness and impartiality and may cause a conflict between official duties and private interests.*
- *A member of the Riigikogu shall not accept gifts or services related to his or her duties and exceeding the limits of usual politeness, unless they comply with generally accepted diplomatic or international practices or are donations permitted by the law.*

26. At the same time, it would appear that Section 26 has been repealed in the current version of the ACA adopted in 2013, of which Estonia provided a copy (see footnote 5) and that gifts are at present covered by its Section 4 (this information is taken from the new situation concerning prosecutors – see recommendation xvi):

**§ 4 of the Anti-Corruption Act - Income derived from corrupt practices**

*(1) Income derived from corrupt practices is the proprietary or other benefits offered to the official or any third person due to his or her official duties or demanded by the official, and benefits received in violation of the obligations of the official. Benefits, which cannot be associated with official duties or which are unambiguously understood as common courtesy, shall not be deemed to be corruptive.*

*(2) An official shall immediately give notification to his or her agency or the person or body who has the right to appoint him or her of accepting benefits which can be associated with official duties. An official shall refuse to accept a benefit defined as income derived from corrupt practices or, if this is impossible, deliver the benefit immediately to his or her agency or the person or body who has the right to appoint him or her. If delivery of the benefit is impossible, the official shall pay the market value of the benefit instead of this. The delivered benefit or the value thereof in money shall be transferred into state ownership or returned, if so provided by law.*

27. Secondly, as indicated in relation to recommendation vi and vii discussed hereinafter, the revised format for the declaration of assets and interests reportedly extends also to gifts received. However, the basis for this remains unclear since the Anti-Corruption Act (ACA) itself does not address at all the declaration of such benefits. The only provision which seems relevant is Section 14(2):

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(3) Gifts received in violation of the restrictions provided for in subsections (1) and (2) of this section shall belong to the employer of the corresponding official, unless otherwise provided by an international custom or diplomatic etiquette.

(2) A declaration shall contain information concerning the following in respect of the declarant during the year before the submission of the declaration:

1) received proprietary and other benefits, which market value exceeds the income subject to social tax received by the declarant in his or her office during the last four months, or if the income received is smaller, four times the minimum monthly wages established by the Government of the Republic pursuant to the Employment Contracts Act. The value of benefits from one source shall be added. Benefits which the declarant received from the persons specified in clause (6) 3) of this section shall not be declared. The persons who grant the benefits and the value thereof shall be set out in the declaration;

2) granted benefits, which market value exceeds the income subject to social tax received by the declarant in his or her office during the last four months, or if the income received is smaller, four times the minimum monthly wages established by the Government of the Republic pursuant to the Employment Contracts Act. The value of the benefits granted to one person shall be added. Benefits which the declarant granted to the persons specified in clause (6) 3) of this section shall not be declared. The persons who received the benefits and the value thereof shall be set out in the declaration.

28. This Section requires the declaration of proprietary and other benefits which exceed a significant amount. This logic appears to be at variance with GRECO's expectations as well as with the 5<sup>th</sup> and 6<sup>th</sup> item of the Code and Section 4 above as the only gifts and other benefits which can be accepted are those which are a sign of courtesy / usual politeness and those which are not related to the duties. In conclusion, Estonia clearly needs to ensure clear and consistent rules are in place for members of parliament on gifts, hospitality and other advantages which are permitted, including for their declaration and registration. GRECO is also looking forward to the finalisation and adoption of the draft guidance document announced by Estonia, the content of which reportedly addresses the present recommendation.
29. As for the monitoring of compliance with the 5<sup>th</sup> and 6<sup>th</sup> item of the Code of Conduct and any other pertinent rules (another requirement of the present recommendation), the assessment in relation to the second part of recommendation ii applies here as well: in the absence of further details and explanations on the way the supervision is applicable to the entire content of the Code, GRECO cannot conclude that this matter has been addressed. In conclusion, more dedicated efforts are required from Estonia to implement the present recommendation in full.
30. GRECO concludes that recommendation iv has been partly implemented.

#### **Recommendation v.**

31. *GRECO recommended that (i) a study be carried out in order to identify post-employment restrictions for members of Parliament which might be required to avert conflicts of interests and ii) post-employment restrictions be regulated, if necessary.*
32. The authorities report that a study was conducted in May and June 2014 by the Research Department of the Riigikogu, which consisted of a legal analysis and a media analysis based on a sample of individual situations from two subsequent legislatures (XI and XIIth). The study thus covered 70 former parliamentarians and it took into account possible controversies raised in media material published in the period 1 January-31 December 2013. Its objective was to identify conflicts of interests arising within a certain period of time after an MP has left the Parliament. The analysis of possible relations between the parliamentary tasks and the subsequent employment did not reveal any conflicts of interest situations. As a result, the study did not support the introduction of systematic post-employment restrictions. Instead, it stressed the need to put emphasis on value-education and

changing behaviour and attitudes. It also concluded that the Constitution does not prevent the introduction of post-employment restrictions as a whole, it rather suggests that any restrictions should take into consideration the principle of proportionality.

33. GRECO appreciates that research was conducted in a way which addresses the underlying considerations of the first part of the recommendation, which has thus been addressed. As for the second part of the recommendation, Estonia has not considered it necessary in the light of this work to regulate post-employment restrictions for parliamentarians.
34. GRECO concludes that recommendation v has been implemented satisfactorily.

#### **Recommendation vi.**

35. *GRECO recommended that the authorities of Estonia take determined measures to ensure a more in-depth examination of economic interests' declarations submitted by members of Parliament pursuant to the Anti-Corruption Act, amongst others by strengthening operational and administrative capacities of the Parliament's Select Committee on the Implementation of the Anti-Corruption Act.*
36. The authorities refer to the new Anti-Corruption Act adopted in 2013 (thus replacing the earlier version of 1999)<sup>5</sup>, which aims at making the work of the Anti-Corruption Select Committee of the Riigikogu more effective. Improvements include an extension of the amount of data to be declared and of the competence and the rights of the Committee. On the basis of the revised Act, an electronic register of declarations of interests was established in 2014. These are publicly available and therefore also subject to public scrutiny including by the media. The latter have, so far, actively published and analysed declarations of politicians, and they have sought clarification from MPs in respect to their loans, among other issues.
37. The register is interconnected with other data collection systems, which makes it easier to check and analyse the data entered by the members of the Riigikogu, and to supervise compliance with the restrictions on activities of MPs. In order to perform its functions, the Committee has the right to summon persons and request access to information and documents that enable to examine in depth the interests and economic activities of the members of the Riigikogu. In addition, the supervising official is entitled to obtain information on the declaring official and his/her assets and interest from other public databases, and to make queries to all persons and entities, including banks, for control purposes.
38. The new system for declaring assets and interests, effective as from 2014, enables every declaring official to use a pre-filled form and to file the declaration electronically<sup>6</sup> after possible corrections and additions have been made; the official may correct the data but the supervising official can see the history of changes. The declaration is instantaneously available to the supervising official(s) and - with some limitations - to every person who is entitled to log into the system. The declaring official receives reminders by e-mail twice before the submission deadline elapses. The supervising official may further leave comments in the system for the

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<sup>5</sup> <https://www.riigiteataja.ee/en/eli/521082014007/consolide> (as of 22.09.2014)

<sup>6</sup> The pre-filled form contains data on: the real estate of the official; the shares and securities owned by the official directly, or indirectly - if the share exceeds 10% of total assets; the vehicles owned by the official (except ships and aircrafts); the income, including domestic dividends, for the last year; indication of family members and of place of residence; membership in boards of legal persons (as from 2015); possible donations made to certain charities or organisations. The declarations also include data concerning: donations made to other entities or persons; benefits received (including gifts) since the revision of the Act in 2013; loans given or received; side activities; informal family relations; foreign dividends, if not declared in the income declaration; property used during the last year; other relevant interests.



attention of the person filing a declaration. The declaration submitted is accessible to the public for three years since the date of submitting, and is preserved in the system for seven years after which it is destroyed automatically. The supervising official can access the declaration during that period, e.g. in order to compare the data. The declaring official is notified if somebody has inspected the declaration. The Estonian authorities take the view that the system is highly efficient for collecting and processing data, even if some of the data may be irrelevant to assess the official's corruption risks. They also underline the user-friendliness for the declaring official, the supervisors and the public at large. Filing and submitting the declaration takes only half an hour, thanks to the pre-filled form.

39. The administrative capacity of the Committee is strengthened by the support of other structural units of the Chancellery of the Riigikogu (first of all, the Research Department), by rearranging the division of tasks among the employees serving the Committee, and the Committee also has the right to authorise persons who are not part of the staff serving the Committee to perform supervision activities if necessary.
40. GRECO takes note of the above information. It is pleased to see that the process aimed at strengthening the capacity of the Parliament's Select Committee on the Implementation of the Anti-Corruption Act (the "Committee") has been pursued and that it now has clear possibilities to cross-check data, to summon persons and to seek additional information. The computerisation of the data collection and storage system appears to be an important new step. The Evaluation Report had pointed to the apparent inability of the Committee to perform its tasks in an effective manner and warned against the "outsourcing" of the control function to civil society and the media. GRECO assumed that this was primarily the result of limited operational and administrative capacities of the Committee, rather than reluctance of such a peer control mechanism. But in their latest comments, the Estonian authorities explain that the purpose of the declaration system is to ensure a preventive effect through the publicity of data concerning declaring officials, and that there is no need to intensify verification by devoting additional resources and personnel to this task. GRECO considers that since the Select Committee is now reportedly well equipped to perform its tasks, it needs to demonstrate that its verification work is also improving, given the recommendation's main underlying concern. For the time being, Estonia does not provide convincing information demonstrating that the Committee is taking a more determined approach in its supervision. At the time of adoption of the present report, the authorities confirmed that part of the information is not supplied automatically from existing databases, for instance assets held abroad, side activities, benefits in general, possible loans and so on. These would require to be equally subjected to in-depth examinations with the appropriate methodology, whether on the basis of samples or specific risk factors, randomly, systematically or otherwise.
41. GRECO concludes that recommendation vi has been partly implemented

#### **Recommendation vii.**

42. *GRECO recommended (i) the establishment of a specific source of confidential counselling to provide parliamentarians with advice on ethical questions and possible conflicts of interest in relation to their legal duties; and (ii) the provision of regular awareness raising activities for members of Parliament (all deputies but especially the new ones) covering issues, such as conflicts of interest, acceptance of gifts, hospitality and other advantages, outside employment, disclosure of interests and other obligations related to corruption prevention.*

43. The authorities, in connection with the first part of the recommendation, indicate that the members of the Riigikogu can already obtain confidential counselling on such issues as avoiding conflicts of interests, disclosure duties (on gifts, advantages and interests) and other preventive measures from the Anti-Corruption Select Committee and the employees of the Chancellery of the Riigikogu (standing committees, Research Department, Personnel Department, management, etc.), but also from the political groups and permanent committees. On the second part of the recommendation specifically, a general training event on the declaration of interests and to present the Anti-Corruption Act's provisions was organised in spring 2014 for the members of the Riigikogu. A total of 35 members and other officials attended the event which lasted one hour on two days and focused on the filing of declaration of interests and on the implications of the Anti-Corruption Act (material was sent to the participants beforehand). In addition, political groups organised similar events on the same subject for their members. Further awareness-raising training will be introduced when the manual on conflicts of interest is adopted (see recommendation iii). When the Riigikogu assumes office in its new composition in 2015, several awareness raising activities will be organised for all parliamentarians according to the established practice and this will give an opportunity to introduce *inter alia* the provisions of the Anti-Corruption Act, the regulations concerning the disclosure of gifts, advantages (see recommendation iv above) and interests, and to present situations where conflicts of interest are to be avoided. Also, an online training programme/ self-teaching tool on ethics and conflicts of interest and other relevant aspects is under discussion and an electronic platform to this end is also being discussed.
44. GRECO takes note of the above information concerning the first part of the recommendation. It would appear that a multiplicity of sources of advice, information and counselling are now in place. At the time of adoption of the present report, the Estonian authorities have provided assurances that confidential counselling can also be given to individual parliamentarians confronted with concrete situations which could potentially be problematic. In the context of Estonia, GRECO considers that the measures in place appear to be sufficient. On the second part of the recommendation, GRECO welcomes the first initiatives implemented to raise awareness among parliamentarians about some of the rules on integrity. Further plans are announced to raise awareness on a broader range of issues and to establish a self-training tool on integrity issues. GRECO is looking forward to their implementation.
45. GRECO concludes that recommendation vii has been partly implemented.

*Corruption prevention in respect of judges*

**Recommendation viii.**

46. *GRECO recommended that (i) decisions on appointment to the post of first and second instance court judge be subject to independent appeal procedure; and (ii) objective criteria for the professional advancement of judges be introduced with the aim of enhancing its uniformity, predictability and transparency.*
47. The authorities indicate that in respect of the first part of the recommendation, the Ministry of Justice and the Supreme Court have reached the conclusion that the appeal procedure regarding decisions on appointment to the post of first and second instance court judge is independent. They consider that the role of the President in this matter is rather ceremonial and balancing and therefore, that the issue highlighted by GRECO is purely hypothetical as there has not been any instance where a decision on appointment to the post of first and second instance judge was appealed. Moreover, questioning the impartiality of the Constitutional

Review Chamber on the mere grounds that they are members of the Supreme Court sitting in plenary is a preconceived view which is not substantiated by any legal basis. The Supreme Court as well as its chambers are independent and serving as the highest court instances.

48. In response to the second element of the recommendation, the Council for the Administration of the Courts has advised the Supreme Court to review the situation and to introduce objective criteria for the professional advancement of judges by the end of 2014. The Council considered that the plenum of the Supreme Court has the competence to establish such criteria, which was done in 2014. Objective criteria for the appointment of second instance court judges were thus discussed in January 2015 and subsequently adopted by the Supreme Court on 17 February .
49. GRECO takes note of the above. As regards the first part of the recommendation, Estonia has not taken any measure to date. As for the second part of the recommendation, GRECO is pleased to see that some criteria have been introduced for the position of second instance court judge; the English version of the document provided by the Estonian authorities listing these criteria refers to 1. Quality of adjudications; 2. Skills for the organisation and managing of proceedings; 3. Specialisation; 4. The overall background including level of education, self-development, research activities and experience; 5. Personal qualities to work in a collegial court. GRECO hopes that similar criteria will be developed for other judges who have particular responsibilities in the judiciary, for instance chairpersons including in first instance courts, as they also carry out managerial functions.
50. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

51. *GRECO recommended that the Estonian authorities consider introducing a system of periodical quality assessments of a judge's professional performance, based on standardised and objective criteria, with due regard being paid to the principle of judicial independence.*
52. The authorities of Estonia report that the Council for the Administration of the Courts (CAC) has asked the Quality Assessment Working Group to review the system of periodical quality assessments of a judge's professional performance. The latter, in response, has agreed to propose to the Council to elaborate a proposition with a view to add to the quality standards of the court management the principle that the chairperson of each court has the obligation to conduct an annual development interview during the first three years for newly appointed judges and at least once every five years for the other judges. The plenum of the Supreme Court has enacted the methodological guidelines for the implementation of development interviews for all judges. For the newly appointed judges, at the request of the Chief Justice of the Supreme Court, the working group is presently developing quality assessment sheets for judgements rendered in the first instance courts; these assessments will be done by the second instance court judges.
53. GRECO takes note of the measures reported above concerning the progressive introduction of an appraisal system. This system will be applicable both for newly appointed judges and for judges already in place, thus providing for useful objective elements when decisions on promotions are made (see recommendation viii above).
54. GRECO concludes that recommendation ix has been implemented satisfactorily.

### **Recommendation x.**

55. *GRECO recommended that (i) a deliberate policy for preventing and managing conflicts of interest and corruption risks be developed within the judiciary; and (ii) the system be put in place to ensure compliance by judges with the aforementioned policy, including the Code of Ethics of the Estonian judges.*
56. The authorities refer to the information provided concerning the implementation of recommendation xii hereinafter, i.e. the recent designing of a standard training model and curriculum on ethics and preventing and managing risks of conflicts of interest and corruption (and its implementation in 2014 and 2015), the existing Code of Ethics, the new duty for all chairpersons of courts to ensure compliance with the Code and that judges and clerks under their responsibility are aware of the Code and corruption risks and are knowledgeable on the prevention and management of conflicts of interest – including by arranging training. Heads of courts are also encouraged within their body to supervise compliance with the declaration duty, as mentioned also below in paragraph 61. The statistics available show that the situation is improving: there were no disciplinary proceedings in 2012, five proceedings took place in 2013 (the delaying of cases concerned two of these and disciplinary measures were applied in both cases; among the three remaining cases for other breaches, one case was concluded without violation of duties), and in 2014, five proceedings were initiated against eight judges (six of whom for delaying of cases and three were sanctioned disciplinarily for this; the other two cases involved other breaches of duty and sanctions were applied).
57. GRECO takes note of the above information. As regards the first part of the recommendation, additional training efforts are supported by a more active role devoted to the courts' chairperson and the Estonian authorities provide statistical data demonstrating the preliminary results of the current efforts and a positive trend of the disciplinary response. The Evaluation report had suggested a series of lines of action such as a more rigorous approach with judicial misconduct (especially the delaying of cases), a stricter application of disciplinary measures and an effective use of reporting duties concerning misconduct contained in the Anti-Corruption Act and the Code of Ethics. It would appear that the main underlying concerns for this part of the recommendation are being addressed, including a stricter approach with regard to the delaying of cases. On the second part of the recommendation, GRECO welcomes that the chairpersons of the courts have been given new responsibilities to support better enforcement and awareness of the Code of Ethics, and the prevention and management of conflicts of interest. As indicated above, statistics also show a positive trend when it comes to the disciplinary response. All this is in line with the objectives of the second part of the recommendation.
58. Overall, GRECO concludes that recommendation x has been implemented satisfactorily.

### **Recommendation xi.**

59. *GRECO recommended that additional measures be put in place to ensure an effective supervision of economic interests' declarations filed by judges pursuant to the Anti-Corruption Act.*
60. The authorities recall that all judges are required to submit annually a declaration of interests which is made public. They point out that the new ACA entered into force on 1<sup>st</sup> April 2013 and its mechanism for the declaration of assets and interests

(section 12 of the ACA<sup>7</sup>). Those declarations are publicly accessible. A declaration shall be submitted by all judges as referred to in section 13 (1) 1) of the ACA. The authorities also reiterate the information provided in respect of the implementation of recommendation vi (regarding the declaration system for MPs) and referring to a) the fact that the new system for the declaration of assets and interest enables every declaring official as from 2014 to submit declarations in an electronic format; b) the fact that the declaration submitted is immediately available to the supervising official(s) and other authorised persons who have access to the database; c) the information which is pre-filled in the system including on membership in the boards of legal persons (as from 2015) and information to be filled by the declarant him/herself<sup>8</sup>; d) the possibility for the declaring official to correct data at any time and for the supervising official to follow these updates; e) the user-friendly nature of the system with reminders sent to declaring officials; f) the ability of the supervisor to leave comments for the declarant in the system and to obtain information on the official and his/her situation from other public databases and to request such information from any person or entity, including banks, while controlling the declaration; e) the timeline for the accessibility and retention of declared data.

61. The Council for the Administration of the Courts has entrusted the chairpersons of the courts to control the declarations of the judges (ancillary activities etc.) working at their court as the declarations are accessible by the public. Declarations are publicly available and therefore also subject to public control (including the media, which have very actively scrutinised the publication and content of declarations).
62. The authorities further provide a long list of information concerning existing provisions of the Courts Act on judges' access to state secrets, the evaluation and background check of candidates for judicial office, as well as provisions of the State Secrets And Classified Information Of Foreign States Act on security clearance mechanisms. They point out that candidate judges are thoroughly checked by the Security Police including as regards their property<sup>9</sup>. Judges in exercise are subject to similar controls on the grounds that they are officials who entitled to access information categorised as State secrets.
63. The Estonian Authorities also point to the following additional mechanisms as effective tools to prevent corruption risks: a) the application of the code of ethics; b) rules on the withdrawal and recusal of a judge in a given criminal proceeding (sections 49, 49<sup>1</sup> and 50 of the Criminal Procedure Code); c) the existing incompatibilities and restrictions on ancillary activities; d) training events planned by the Training Council (see also rec xii).
64. GRECO takes note of the above information. It points out that the checks carried out by the State security police pursue a specific, different objective and relying on them for broader supervision might raise other concerns. GRECO recalls that the underlying considerations contained in paragraphs 135-136 of the Report was the inadequate supervision of declarations of first and second instance court judges. At the time of the visit, the Ministry of justice was vested with this responsibility but it was not up to the task due to over-reliance on the public disclosure, insufficient human resources allocated to this (one employee) etc. Similarly, the declarations of Supreme Court judges were under the week supervision of the parliamentary Anti-

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<sup>7</sup> <https://www.riigiteataja.ee/en/eli/521082014007/consolide> (as of 22.09.2014)

<sup>8</sup> On donations made to other entities or persons; gifts received; loans given or received; side activities; informal family relations; foreign dividends, if not declared in the income declaration; property used during the last year; other relevant interests.

<sup>9</sup> The format of the application and data to be checked and controlled by the Security Police includes *inter alia* information on: phone numbers, addresses for the past 7 years, information on family members, education, contacts with foreign countries, visits to foreign countries (past 10 years), property (real estate, securities, loans, additional revenue, accounts), hobbies

Corruption Select Committee (see recommendation vi), an issue which has not yet been completely resolved. GRECO understands from the above and the latest explanations provided by Estonia that the supervision of declarations has been reviewed. The Estonian authorities explain that the supervision of declarations filled by all categories of judges was transferred to the Anti-Corruption Select Committee of the Riigikogu and that the chairpersons of the courts are encouraged to inspect declarations of judges under their responsibility as far as information already public is concerned. GRECO recalls the considerations under recommendation vi above, in particular the fact that important data still needs to be supplied by the declaring person and that all data is not made automatically available from other databases already checked by other authorities (tax administration, public registries and so on). GRECO considers that supervisory responsibilities of the Committee and chairpersons need to be clear and effectively used. As it was already indicated, it would appear that Estonia still relies excessively on the principle of public disclosure. In conclusion, GRECO expects more tangible progress in the supervision of declarations of interests filed by judges.

65. GRECO concludes that recommendation xi has been partly implemented.

**Recommendation xii.**

66. *GRECO recommended that dedicated and on-going training programmes be elaborated for judges focusing on judicial ethics, conflicts of interest (including recusal and withdrawal), rules concerning gifts, hospitality and other advantages, declarations of interests and other corruption awareness and prevention measures.*
67. The authorities indicate that a standard training curriculum for judges was developed in the area of ethics as well as preventing and managing risks of conflicts of interest and corruption. The training model involves *inter alia* group work and discussing practical cases. It was first applied in 2014 and the training plan for judges in 2015 foresees a continuation of the sessions. The Training Council has decided that this training must become part of the annual training plan. All judges must attend this training during their first three years as a judge. Two one-day sessions took place on 25 April 2014 in Tartu and on 16 May 2014 in Tallinn involved as trainer the chairman of one court who has comprehensive experience in judicial ethics; he took into account generally prevailing trends as well as the outcome of GRECO reports. The first sessions were attended by 32 judges altogether as well as representatives of the Bar Association. They included interactive case studies. Positive feedback was received from those judges who attended the courses in 2014 and they showed great interest in these. In 2015, two similar sessions have been scheduled in March and April in the same cities; 32 judges have registered. Also, an online training programme/ self-teaching tool addressing *inter alia* ethics and conflicts of interest is under discussion, while the possible electronic platform for it is under development.
68. The Quality Assessment Working Group has reviewed the quality standards for court management and added the obligation for every court chairperson to ensure that all judges and clerks are informed about corruption risks, are knowledgeable about preventing and managing the conflicts of interest and comply with the rules of ethics. Chairpersons may thus organise thematic round tables, direct the judge or the clerk to the special training provided by the Supreme Courts training department, carry out personal development interview etc.
69. GRECO welcomes the various measures reported above and concludes that recommendation xii has been implemented satisfactorily.

**Recommendation xiii.**

70. GRECO recommended that objective and transparent criteria be introduced for the promotion of prosecutors with the aim of enhancing its uniformity, predictability and transparency.
71. The authorities indicate that an inventory of competences was elaborated, which is to be used for job descriptions and the filling of all posts. Pursuant to the changes made, requirements have been set for those categories of posts which may or may not necessarily be filled via a competition (leading public prosecutor, leading prosecutor, senior prosecutor, public prosecutors) as well as for the more senior positions which can only be filled following a competition. The skills and qualifications required in relevant positions have been determined in 2014 and enforced on 10.10.2014. They were based *inter alia* on the criteria listed in the Middle-Level Civil Service Competency Framework (<http://www.avalikteenistus.ee/index.php?id=40575>), and for Chief Prosecutors and Chief State Prosecutors on the basis of the Senior Civil Service Competency Framework <http://riigikantselei.ee/et/tippjuhtide-kompetentsimudel> both adopted in 2013.
72. Moreover, the following chapter and sections have been added to the regulation of the Minister of Justice (*Requirements for organisation of the competition for prosecutors and for the competitors*).

Chapter 31

REQUIREMENTS FOR PERSONS APPOINTED TO POSITIONS OF SENIOR PROSECUTORS, STATE PROSECUTORS, CHIEF PROSECUTORS AND CHIEF STATE PROSECUTORS

§ 81. Requirements for persons appointed to Senior Prosecutor's position

(1) A person who shall be appointed to the Senior Prosecutor's position has to meet the requirements set out in § 6 of the ruling.

(2) In case of several candidates who meet the requirements, preference is given to a candidate who meets the following criteria best:

- 1) extensive legal knowledge and varied professional experience as a Prosecutor;
- 2) knowledge about the functioning of different parts of the criminal justice system;
- 3) intellectual capability, including strong analytical skills and good argumentation skills;
- 4) very good communication and self-expression skills, collaboration and negotiating skills;
- 5) stress tolerance and decision-making skills;
- 6) the ability to set an example for others by being reliable, ethical and committed;
- 7) readiness and skills for representing the Prosecutor's Office in working groups and before the public;
- 8) management skills, including the ability to start processes and keep them running with high quality, the ability to critically assess and filter information and present it pursuant to the target group's needs, the ability to form a team and keep it working, the ability to assess the present condition of the managed area and identify development needs, the ability to delegate and motivate, and the ability to regulate the work load of people.

§ 82. Requirements for persons appointed to State Prosecutor's position

(1) A person who shall be appointed to the State Prosecutor's position has to meet the requirements set out in § 6 of the ruling.

(2) In case of several candidates who meet the requirements, preference is given to a candidate who meets the following criteria best:

- 1) criteria set out in § 81 (2) subindents 1-7;
- 2) readiness and skills for representing the Prosecutor's Office at conferences and in international communication;
- 3) proficiency in foreign languages which are required for work;
- 4) knowledge about the functioning of international criminal cooperation.

*§ 83. Requirements for persons appointed to Chief Prosecutor's position*

*(1) A person who shall be appointed to the Chief Prosecutor's position has to meet the requirements set out in § 6 of the ruling.*

*(2) In case of several candidates who meet the requirements, preference is given to a candidate who meets the following criteria best:*

*1) criteria set out in § 81 (2) subindents 1-8 and § 82 (2) subindents 2 and 3;*

*2) skills for using strategic planning in one's respective field, so that it would support the implementation of development goals of the state.*

*§ 84. Requirements for persons appointed to Chief State Prosecutor's position*

*(1) A person who shall be appointed to the Chief State Prosecutor's position has to meet the requirements set out in § 6 of the ruling.*

*(2) In case of several candidates who meet the requirements, preference is given to a candidate who meets the best criteria set out in § 81 (2) subindents 1-8 and § 82 (2) subindents 2-4 and § 83 (2) subindent 2.*

73. GRECO welcomes the above improvements. They address the concerns expressed in the Evaluation Report as regards the need for greater objectiveness in the recruitment and promotion to higher positions within the prosecution services, including the highest levels of responsibility. It concludes that recommendation xiii has been implemented satisfactorily.

**Recommendation xiv.**

74. *GRECO recommended that the authorities of Estonia consider introducing a system of periodical quality assessments of the prosecutors' performance, based on standardised and objective criteria, with due regard being paid to the prosecutors' autonomy.*
75. The authorities explain that as recommended by GRECO, they have been considering introducing a system of periodical quality assessments of the prosecutors' performance, based on standardised and objective criteria, with due regard being paid to the prosecutors' autonomy. A two day seminar-workshop including both executive and managerial level prosecutors was organised already in December 2012, in order to set the main criteria that an adequate system of that kind could be based upon. Since then, based on the main criteria agreed upon at that meeting, further analysis has been conducted on many levels both in the Ministry of Justice and the Office of the Prosecutor General. A preliminary model of a workload (quality) analysis has been drafted the purpose of which is to establish and agree on certain standards (including the work-load of individual prosecutors with due regard being paid on complexity of cases etc.). The preliminary model is currently being analysed and a performance assessment tool for prosecutors is under consideration. Such a tool is expected to allow for comparisons between different units and offices as well as between different prosecutors performing comparable work.
76. GRECO notes with satisfaction that Estonia is considering new tools to assess the work performed by prosecutors. It would appear from the information provided that the underlying concerns which had led to this recommendation are being addressed. GRECO encourages Estonia to finalise this reform.
77. GRECO concludes that recommendation xiv has been implemented satisfactorily.

**Recommendation xv.**

78. *GRECO recommended that (i) the Ethics Code of the Prosecutorial Service be complemented in such a way as to offer guidance by way of explanatory comments*



*and/or practical examples, particularly with regard to conflicts of interest and related areas; and (ii) a deliberate policy for preventing and managing conflicts of interest and corruption risks within the Prosecutorial Service be developed and a system to ensure compliance by prosecutors with the aforementioned policy, including the Code of Ethics of the Prosecutorial Service be put in place.*

79. The authorities point to the new Code of Ethics which was adopted by the Prosecutors' Assembly of 12.04.2013. The code has five chapters dealing with: 1. General provisions; 2. Rules related to pre-trial and court procedure: it covers i.a. general principles, honour and dignity, independence, the avoidance of conflicts of interest (it addresses also gifts and situations of self-withdrawal); 3. Relations with colleagues and public; 4. Ancillary activities; 5. Implementing provisions: it states explicitly, i.a., that the code of ethics is to be taken into account by the the disciplinary committee when deciding on the conduct of a prosecutor.
80. With the new code, the Prosecutors' Ethics Council was established as a new structure to ensure the existence an active policy for preventing and managing conflict of interest and corruption risks. The Council is to be consulted on the admissibility of a case concerning the action or behaviour of a prosecutor. The Council also provides general explanations concerning the Code. The Estonian authorities take the view that the Council has already proven its usefulness, pointing out that it has already accumulated sufficient "case law" which can be used to illustrate good practices.
81. On 13 March 2014, the council has issued a guide (which is available online on the internal network for prosecutors) with comprehensive explanatory comments to conflicts of interest as well as practical examples. These cover *inter alia* possible situations of conflict of interest and include explanations, guidance and background information. In addition to a general overview of ethical issues, the guide puts emphasis on issues most likely to arise in the prosecutorial service. Explanatory comments also cover topics like ancillary activities and the use of confidential information.
82. GRECO takes note of the above information and is pleased to see that a number of measures have been taken to address this recommendation. GRECO hopes that the Ethics Council will play an increasing role in future also in the area of integrity-related policy-making.
83. GRECO concludes that recommendation xv has been implemented satisfactorily.

**Recommendation xvi.**

84. *GRECO recommended that guidelines be developed within the Prosecutor's Office to clarify the standards for acceptable courtesy gifts and the procedure for their reporting.*
85. The authorities indicate that pursuant to section 4 (1) of the Anti-Corruption Act (ACA) in force as from 1 April 2013, an official is prohibited from demanding, intermediating and receiving income derived from corrupt practices. Income derived from corrupt practices has been further explained in section 4 (1) of the ACA, with Subsection 2 explaining what an official should do with such income:

*§ 4 of the Anti-Corruption Act - Income derived from corrupt practices*

*(1) Income derived from corrupt practices is the proprietary or other benefits offered to the official or any third person due to his or her official duties or demanded by the official, and benefits*

*received in violation of the obligations of the official. Benefits, which cannot be associated with official duties or which are unambiguously understood as common courtesy, shall not be deemed to be corruptive.*

*(2) An official shall immediately give notification to his or her agency or the person or body who has the right to appoint him or her of accepting benefits which can be associated with official duties. An official shall refuse to accept a benefit defined as income derived from corrupt practices or, if this is impossible, deliver the benefit immediately to his or her agency or the person or body who has the right to appoint him or her. If delivery of the benefit is impossible, the official shall pay the market value of the benefit instead of this. The delivered benefit or the value thereof in money shall be transferred into state ownership or returned, if so provided by law.*

86. In their latest comments, the Estonian authorities explain that the word “benefits” (*soodustused*) – used in the last sentence of the first paragraph – is a broad concept which includes pecuniary and non-pecuniary gifts and other benefits. They also refer to a new provision of the Code of Ethics for prosecutors adopted on 12 April 2013 (section (6) 3)) which prohibits prosecutors and their family members from accepting gifts, heritage, loans or services from parties to proceedings. The acceptance of gifts has been explained thoroughly in the explanatory notes published by the Ethics Council and dated 13 March 2014 (see recommendation xv) with an outline of the legal framework and concrete examples. In the case of possible conflict of interests, a prosecutor has also the opportunity to turn to the Ethics Council for advice.
87. GRECO takes note of the efforts made in Estonia on rules and guidance on gifts for members of the prosecution services. It recalls that Section 26 of the Anti-Corruption Act (ACA) in force at the time of the visit prohibited officials from soliciting or accepting gifts and benefits which can undermine directly or indirectly the impartial performance of duties (see full text in footnote 1 of the present report). This provision applied to prosecutors – unlike judges who were (are) subject to specific standards with a strict ban in this area. GRECO therefore considered that too much discretion was left to the own interpretation of individual prosecutors. First of all, it would appear that the revised ACA of April 2013, which does not refer to gifts anymore, is taking a different approach. The margin of appreciation left to individual prosecutors has been reduced considerably by authorising only “Benefits, which cannot be associated with official duties or which are unambiguously understood as common courtesy”. Moreover, the code of Ethics for prosecutors contains at present a ban (on gifts, a heritage, loans or services), as in the case of judges. It is however limited to situations where the benefit emanates from a party to proceedings. Estonia may wish to keep the consistency of these various new rules under further review, for instance as regards permissible gifts and their origin. At the same time, the explanatory notes adopted by the Ethics Council on 13 March 2014 do provide guidance and concrete examples showing i.a. that even small gifts and favours can be problematic. This responds to one of the recommendation’s objectives. They do not deal with the disclosure and reporting of gifts but GRECO understands that this matter is now covered by the ACA itself: its Section 4 paragraph 2 requires to report to the employing body / agency any benefit “which can be associated with official duties”. This also responds to the present recommendation.
88. GRECO concludes that, overall, recommendation xvi has been implemented satisfactorily.

#### **Recommendation xvii.**

89. *GRECO recommended that uniform requirements be made applicable to all the categories of prosecutors as concerns the disclosure of their interests, pursuant to the revised Anti-Corruption Act.*

90. The authorities provide a long list of information and rules similarly to that communicated in response to recommendation xi on the disclosure of interests of judges, which appears largely unrelated to the specific objectives of the present recommendation. This includes the fact that candidate prosecutors are subject to background checks before they are recruited and prosecutors in office are monitored by the competent police services for State security purposes (the Internal Security Service of the Security Police) since they belong to the category of persons who have access to State secret information. In addition, the authorities refer to the new Anti-Corruption Act (ACA) which entered into force on 1 April 2013 and its Section 12<sup>10</sup>, according to which obliged officials are required to submit to the Anti-Corruption Committee of the Riigikogu a declaration of assets and interests, these declarations being public. The officials concerned are spelled out listed under Section 13 paragraph 3 ACA: an obligation to submit a declaration exists only for officials who have the competence to dispose of public resources or to conduct criminal or administrative proceedings and where there are no measures that are more efficient to prevent corruption risks. This formulation covers the heads of government agencies and judges but not the prosecutors generally. The competent Minister or public authority may nonetheless subject other persons performing public duties under their responsibility to the declaration duties pursuant to Section 13 (1) 15. Estonia indicates that to date, the Prosecutor General has not taken such decisions regarding the prosecutors generally. S/he alone is required to file a declaration in accordance with section 13 (1) 1 in his/her capacity of head of a governmental agency.
91. GRECO takes note of the information above. As indicated in the Evaluation Report, at the time of the evaluation *"The Prosecutor General, leading public prosecutors and chief prosecutors file their declarations with the Parliament's ACA Select Committee, whereas prosecutors of other categories present their declarations to the Prosecutor General's Office. Declarations submitted by the Prosecutor General are published in the on-line State Gazette, except for personal details and information on the income, including taxable and dividend income. Declarations of other categories of prosecutors are confidential."* The report expressed concerns that the desirable uniformity in the application of the new Anti-Corruption Act (ACA) could be undermined. It had been announced that to address these concerns, Estonia's Prosecutor General would issue an order subjecting all prosecutors in an equal manner to the declaration mechanism of the ACA and that all declarations would thus become public in future. Although these plans have not materialised to date, Estonia has addressed the lack of consistency of declaration regimes by requiring only the Prosecutor General to file a declaration under the new arrangements of the revised ACA of 1 April 2013. The possible extension to other prosecutors (on the basis of objective criteria, as the authorities explained in their attest comments) is to be decided by the Prosecutor General. At the very moment, the underlying concerns have thus been addressed in another manner. It is however clear that when individual prosecutors are required again to submit a declaration – to the Prosecutor general – the desirable uniformity could become an issue again. Estonia needs to bear this in mind.
92. GRECO concludes that recommendation xvii has been dealt with in a satisfactory manner.

### **Recommendation xviii.**

93. *GRECO recommended that additional measures be put in place to ensure the effective supervision of economic interests' declarations submitted by prosecutors pursuant to the Anti-Corruption Act.*

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<sup>10</sup> <https://www.riigiteataja.ee/en/eli/521082014007/consolide> (as of 22.09.2014)

94. The authorities refer to the information and new developments concerning recommendation xvii.
95. GRECO recalls that the evaluation had pointed to the weak supervision carried out by the Parliament's ACA Select Committee and the Prosecutor general's Office concerning the respective categories of prosecutors concerned (see paragraph 91 above). GRECO considers that with the amendments of 1 April 2013 and the suppression of a declaration duty for a variety of prosecutors, the main issue remains the effective supervision of declarations to be filed by the Prosecutor General him/herself with the Committee. This matter is now addressed under recommendation vi and the objectives of the present recommendation have thus been addressed in another way. As indicated in paragraph 91, it is however clear that when individual prosecutors are required again to submit a declaration – to the Prosecutor General – the effectiveness of the Prosecutor General's supervision could become an issue again. Estonia needs to bear this in mind.
96. GRECO concludes that recommendation xviii has been dealt with in a satisfactory manner.

**Recommendation xix.**

97. *GRECO recommended that dedicated and on-going training programmes, supported by relevant materials, for prosecutors be developed focusing on professional ethics, conflicts of interest (including recusal and withdrawal), rules concerning gifts, hospitality and other advantages, declarations of interests and other corruption awareness and prevention measures.*
98. The authorities indicate that with regard to dedicated training programmes on topics such as ethics, conflicts of interest and gifts, including practical examples of situations, such sessions have been planned for 2015 by the Prosecutors' Ethics Council<sup>11</sup>. Attendance shall be mandatory for all Estonian prosecutors. 5 training sessions are planned as part of the Annual Training Programme for Prosecutors. These have been scheduled as follows, at both district and central level in order to maximise the impact of training: a) 15.04.2015 in Jõhvi; b) 22.04.2015 in Pärnu; c) 24.04.2015 in Tallinn; d) 15.05.2015 in Tallinn; e) 22.05.2015 in Tartu.
99. Estonia also refers to the measures announced under recommendation xv concerning the creation in April 2013 of a Prosecutors' Ethics Council and the adoption of a new Code of Ethics accompanied by explanatory notes. They also refer to the planned establishment of an online self-training tool on ethics, conflicts of interest and other integrity-related matters, also mentioned earlier in relation to recommendations vii and xii.
100. GRECO is pleased to see that a series of concrete measures are planned to address this recommendation and it encourages the authorities to pursue their efforts. GRECO will need to reassess the situation when the process of implementation is more advanced and concrete information becomes available on the actual content of training activities, the attendees involved/concerned and so on.
101. GRECO concludes that recommendation xix has been partly implemented.

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<sup>11</sup> At the time of adoption of the present report, the Estonian authorities indicated that these events are to be carried out mainly by the head of the prosecutors' Ethics' Council and partly by a judge (introducing the principles of ethics concerning court proceedings that have been drawn up by Prosecutor's Office, courts and Estonian Bar Association). They would provide practical illustration with case-examples, also on the basis of the content of the Code of Ethics and its explanatory guidelines (including feedback received so far) as well as the guidelines on reporting mechanisms when one is being (unlawfully) influenced.

### **III. CONCLUSIONS**

102. **In view of the foregoing, GRECO concludes that Estonia has implemented satisfactorily or dealt with in a satisfactory manner ten of the nineteen recommendations contained in the Fourth Round Evaluation Report.** The nine remaining recommendations have been partly implemented.
103. More specifically, recommendations v, ix, x, xii to xvi have been implemented satisfactorily, recommendations xvii and xviii have been dealt with in a satisfactory manner and recommendations i, ii, iii, iv, vi, vii, viii, xi and xix have been partly implemented.
104. With respect to members of parliament, despite a series of reforms and new integrity standards being introduced, conclusive progress was achieved in respect of one recommendation only. Some important developments are reported, such as the adoption in December 2014 of a Code of conduct for MPs and the publication in March 2015 of a guidance document containing practical examples of potentially problematic situations involving conflicts of interest and benefits offered to parliamentarians. Other measures are being introduced including rules on the way MPs engage with lobbyists and other third parties. Estonia announces that there are plans to amend the Anti-Corruption Act further, in order for instance to broaden its applicability to MPs. Measures are also being taken to clarify the rules on gifts and other benefits and to provide for guidance in this area. GRECO welcomes these various initiatives. On the other side, it expects more determined action to improve the supervision of the Code of conduct and of the system for the declaration of assets and interests by the Anti-Corruption Select Committee of the Parliament, and to put in place adequate awareness-raising measures for members of Parliament.
105. As far as judges and prosecutors are concerned, Estonia is making improvements through new measures to make judges and prosecutors more familiar with integrity standards and for the objectivity of decisions on the promotion of prosecutors. Likewise, in April 2013 a new Code of ethics and an Ethics Council were introduced for prosecutors and appraisal systems are being introduced for judges and prosecutors. GRECO also welcomes new steps as regards the adoption of objective criteria for the advancement of judges; for the time being, this innovation is limited to the appointments to appellate courts. Estonia has also taken steps to foster the supervision of the judges' declarations of assets and interests and changes in the supervisory arrangements applicable to prosecutors have, for the time being, put an end to the lack of consistency across this body of practitioners.
106. Estonia has thus initiated an ambitious reform process and GRECO notes that further amendments are underway in respect of a number of the pending recommendations. It encourages Estonia to pursue its efforts especially since for the time being, the vast majority of recommendations concerning integrity rules for members of Parliament have only been partly implemented. It invites the Head of delegation of Estonia to submit additional information regarding the implementation of recommendations i, ii, iii, iv, vi, vii, viii, xi, and xix by 30 September 2016.
107. Finally, GRECO invites the authorities of Estonia to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.