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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

FINLAND

Adopted by GRECO at its 67th 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 Finland to implement the recommendations issued in the Fourth Round Evaluation Report on Finland which was adopted at GRECO's 59th Plenary Meeting (22 March 2013) and made public on 27 March 2013, following authorisation by Finland ([Greco Eval IV Rep \(2012\) 6E](#)). 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 Finland submitted a Situation Report on measures taken to implement the recommendations. This report was received on 16 September 2014 and replaced by an updated report on 5 February 2015. The latter report served, together with some information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Poland and Sweden to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Rafał KIERZYNKA, on behalf of Poland and Ms Elin CARBELL-BRUNNER, on behalf of Sweden. 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 8 recommendations to Finland in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. The authorities of Finland indicate that on 17 April 2013, a parliamentary working group was established to deal with, among other things, the recommendations issued by GRECO in respect of members of parliament. The authorities submit that all GRECO's recommendations have been dealt with by the Working Group and that proposals to meet the concerns of GRECO were included in the final Report of the Working Group, published in May 2014. The proposals of the Working Group were submitted to Parliament and, as a result, Parliament amended its Rules of Procedure on 21 February 2015. On 9 March 2015, the Council of the Speaker of Parliament issued further instructions on how to interpret the Rules of Procedure in respect of conflicts of interest and obligations pertaining to members of Parliament, which form the Code of Ethics of MPs. As a consequence, declaration forms, IT systems, training and counselling schemes are being modified to comply with the new regulations which enter into force on 22 April 2015.

Recommendation i.

7. *GRECO recommended (i) that a Code of Conduct for members of parliament be adopted and made easily accessible to the public; and (ii) that it be complemented by practical measures for its implementation, such as dedicated training or counselling.*

8. The authorities refer to the general information provided in paragraph 6. The instructions of the Speaker's Council (issued on 9 March 2015) constitute the Code of Conduct for members of parliament. The Code contains provisions regulating various forms of outside ties such as businesses, ownerships, liabilities, gifts etc. The new provisions and instructions are to be published at the website of Parliament in order to be easily accessible to the public. In addition, the authorities are planning that MPs will also receive counselling and training in respect of the new Code of Conduct.
9. GRECO welcomes the recent adoption of a Code of Conduct for members of parliament, following a thorough process. This achievement provides an important complement to the Constitution, legislation and the amended Rules of Procedure of Parliament. The Code deals with various forms of potential conflicts of interest, such as side activities, financial interests, gifts, offers and liabilities. Obviously, the more practical aspects relating to the implementation of this instrument (training and counselling) have not been ensured as yet. GRECO urges the authorities to continue the process of implementation which, currently, is at an early stage.
10. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

11. *GRECO recommended that written (public) clarification of the meaning of article 32 of the Constitution (conflicts of interest) and guidance on the interpretation and application of that article be provided to members of parliament.*
12. The authorities report that the Working Group (see paragraph 6) commissioned Dr. Jur. Mikael Hidén, Professor Emeritus of constitutional law, to draw up clarifications of the meaning of article 32 of the Constitution. The written clarifications were accepted by the Working Group and attached to the final report by the Group, which was made public on 14 May 2014.
13. GRECO recalls that this recommendation was triggered by the fact that article 32 of the Constitution is considered so general that it "does not serve as a sufficient reference for preventing and resolving conflicts of interests of MPs and that it needs to be complemented in order to prevent any confusion" (Evaluation Report, paragraph 41). To remedy this situation, the Finnish authorities have commissioned a recognised constitutional expert to draw up clarifications/commentary in respect of article 32 of the Constitution. The commentary (9 pages, available to GRECO) has been attached to the final report of the Working Group and has been made public¹. The commentary deals with the relationship between article 32 of the Constitution and the legal rules on conflicts of interest applicable to public officials and draws the conclusion that article 32 of the Constitution is the only provision that is relevant in respect of members of parliament. Moreover, the commentary explains the meaning of different elements of the provision, e.g. what is meant with the requirement that a member of parliament is disqualified from consideration of and decision-making in any matter that "concerns him/her personally" and that s/he may, "participate in the debate on such matters in a plenary session". In addition, it gives examples of situations where a member of parliament may be in a situation of conflicts of interest, by providing a few practical cases.
14. GRECO is of the opinion that the measures taken represent a reasonable response to the recommendation.

¹ <http://www.eduskunta.fi/triphome/bin/ekjx3000.sh?kanta=erekj&OLETUSHAKU=AKTYYPPI%3Dekj%23&PALUUHAKU=%2Ftriphome%2Fbin%2Fakxhaku.sh%253Flyh%3DEKJKAN%253Flomake%3Dekj%2Fekjx%2Fekjx3000&LYH=LYH-EKJKAN&VAPAAHAKU=&VPVUOSI=2014>

15. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

Recommendation iii.

16. *GRECO recommended that the rules applicable to the acceptance of gifts by members of parliament be clarified and further developed so as to ensure that they provide for an appropriate mechanism for the valuation of benefits received or offered (in cases of doubt), that they cover any benefits, including benefits in kind, and that they clearly define what conduct is expected of members of parliament who are given or offered such benefits.*
17. The authorities submit that with the adoption of the amended Rules of Procedure and the Code of Conduct, as referred to in paragraph 6, the internal rules of Parliament concerning gifts have been widened to cover gifts in a broader sense, including benefits in kind as well as specific forms of benefits, such as entrance tickets and trips paid for by third parties. Parliamentarians are obliged to enter information on gifts exceeding a certain threshold value into a publicly available register. Furthermore, since 2013, there has been a committee in place that estimates the value of a benefit if there is doubt.
18. GRECO notes that in the Evaluation Report (Paragraph 45) there were three major concerns raised in respect of gifts which called for further clarifications: i) there was a need for a mechanism to evaluate different forms of benefits in situations of doubt, ii) to ensure that various forms of benefits (including in-kind benefits) are covered, to prevent "grey-zones" as to what is to be considered a gift, and iii) to develop a notification system and guidelines. GRECO is pleased to note that the Finnish authorities have addressed these three problem areas in an appropriate manner, through the adoption of the amended Rules of Procedure and the Code of Conduct.
19. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

20. *GRECO recommended (i) that regular disclosure of outside ties by members of parliament be made mandatory and that its scope be widened to include information on income received from additional activities; and (ii) that consideration be given to widening the scope of disclosure to include information on assets and liabilities below the current thresholds as well as information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public).*
21. The authorities state that the parliamentary Working Group (see paragraph 6) has carefully considered the components of the current recommendation and that, in its final report - published on 14 May 2014 - it proposed the introduction of a mandatory disclosure of outside ties by members of parliament and also the lowering of the thresholds for shares and other assets. The Working Group considered that the existing thresholds relating to liabilities were appropriate and agreed not to propose mandatory reporting in respect of spouses and dependent family members. With the adoption of the amended Rules of Procedure by Parliament on 21 February 2015, MPs are now obliged to disclose outside ties covering responsibilities, such as business activities, shares in enterprises and other considerable assets that could be of significance when assessing the activities of a member of parliament. Furthermore, the current thresholds in respect of assets or shares are set at €50 000 or 20% (earlier 30%) of the votes of a company.

22. GRECO notes that the recommendation has been considered in its entirety by the dedicated parliamentary Working Group and that, as a result of its proposals, Parliament has amended its Rules of Procedure and thus made regular disclosure of outside ties of members of parliament mandatory as well as in respect of income received from additional activities. Moreover, certain thresholds of assets have been lowered in order to provide broader transparency. GRECO regrets that declarations are still not required from spouses and dependent family members, but accepts that this part of the recommendation has also been duly considered.
23. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation v.

24. *GRECO recommended that appropriate measures be taken to ensure supervision and enforcement of the existing and yet-to-be established rules on conflicts of interest and disclosure of outside ties by members of parliament.*
25. The authorities report that the Parliamentary Office has been made responsible for the supervision and enforcement of the disclosure rules and conflicts of interest, in accordance with what was suggested in the Evaluation Report (paragraph 65). In case an MP does not comply with the disclosure rules, the Parliamentary Office will remind him/her and if that does not suffice, the Speaker of Parliament will make an announcement in the plenary session of Parliament (Section 76 a Rules of Procedure). The Parliamentary Office is also responsible for maintaining the public register in which the declarations are filed and made available to the public.
26. GRECO welcomes the information provided. It is pleased that Finland has found a model for the supervision, which appears to be appropriate to the situation. It notes that the Parliamentary Office was already suggested in the Evaluation Report as an adequate supervisory body, in order to avoid unnecessary bureaucratic burden on the system. GRECO notes that the enforcement measures provided appear pertinent, considering that the mandatory disclosures are subject to a very high degree of transparency and that - as result - the wider public also has extended possibilities for supervision of the members of parliament in respect of possible conflicts of interest.
27. GRECO concludes that recommendation v has been implemented satisfactorily.

Corruption prevention in respect of judges

Recommendation vi.

28. *GRECO recommended (i) that the "Ethical Principles for Judges" adopted by the Association of Finnish Judges be communicated effectively to all lay judges and expert members of courts; and (ii) that they be complemented by further measures, including dedicated training, aimed at offering proper guidance on the application of the Ethical Principles and on conflicts of interest and related issues.*
29. The authorities submit that this recommendation has been dealt with through training carried out in 2013 and onwards. Questions relating to ethical principles and disqualification of judges due to a conflict of interests are continually handled in the training events. The authorities refer in particular to training carried out in 2013 for new court chairpersons (3+3 days) devoted to ethics and disqualification of judges, during which the Ethical Principles for Judges were distributed to all participants - and dealt with separately - in the course of the training. Moreover, training has been provided on matters related to the principles of a fair trial,

gathering some 70 judges annually; also on the human rights treaties and fundamental rights in the administration of justice, bringing together approximately 40 judges every year. In addition, the role of a judge and connected ethical questions has been touched upon in the training on forensic psychology and child law. As far as lay judges are concerned, the authorities explain that they are always trained at the beginning of a new term. Moreover, the Ministry of Justice provides financing for the annual autumn training of lay judges, but the actual programme of the course is put together by the Association of Finnish Lay Judges. The most recent induction day for lay judges was organised in 2013. Almost every presentation during the induction day touched upon ethical questions and disqualification matters. Altogether 330 lay judges participated in these events, organised in Helsinki, Rovaniemi and Vaasa. In addition, approximately 430 lay judges followed the training via video link. In 2014, the Ministry of Justice organised procedure training for 22 judges of the administrative courts, including the Ethical Principles for Judges. The disqualification of attorneys and professional conduct were on the agenda of a training event aimed at the entire personnel of the legal aid district of Vaasa in March 2014, in which 60 persons participated.

30. GRECO takes note of the information provided, which indicates that some of the concerns raised in the current recommendation (mainly the training in respect of "the Ethical Principles for Judges") have been dealt with to some extent within the ordinary framework of training of judges, lay judges and other "stakeholders" of the justice system. However, the recommendation goes beyond that. GRECO recalls that "the Ethical Principles for Judges" were considered quite general and that they do not take a sufficient and coherent account of certain corruption risks, notably the definition of conflicts of interest, nor do they offer adequate guidance for such situations (Evaluation Report, paragraph 114). The recommendation calls for further measures in this respect, for example, written guidelines/explanations or regular practice-oriented training on such matters in addition to the ordinary training provided.

31. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii.

32. *GRECO recommended that the rules on accessory activities of judges, including arbitration activities in particular, be further developed so as to enhance transparency and to introduce uniform procedures, criteria – and appropriate limits – for granting permission to engage in such activities.*
33. The authorities submit that the Government has elaborated draft legislation regulating the outside employment of judges and refer to nine specific acts in respect of which the Government has made draft amendments. The purpose of the draft legislation is especially to increase the transparency when it comes to judges' accessory activities, such as arbitration, and their remuneration. Information on the remuneration, in the same manner as other public information on outside ties and outside employment should, according to the draft law, be entered into a register regarding outside ties and employment to be maintained by the Legal Register Centre. The draft legislation has been agreed by the Government and is currently pending before Parliament.
34. GRECO takes note of the information provided and is pleased that draft legislation aiming at enhancing transparency and regulating accessory activities of judges has been elaborated by the Government. Furthermore, it notes that the draft legislation is at an advanced stage, pending before Parliament. GRECO urges the authorities to pursue this matter.

35. GRECO concludes that recommendation vii has been partly implemented.

Corruption prevention in respect of prosecutors

Recommendation viii.

36. *GRECO recommended (i) that a set of clear ethical standards/code of professional conduct (including guidance on conflicts of interest and related issues) be made applicable to all prosecutors and made easily accessible to the public; and (ii) that it be complemented by practical measures for its implementation, such as dedicated training or counselling.*
37. The authorities report that, on 27 March 2013, the Prosecutor General set up a working group to draw up a proposal on ethical principles for prosecutors, including guidelines for prosecutors in their daily work and private life, on how conflict situations should be resolved and how the principles would be adhered to in the prosecution service. The Working Group was chaired by the Head of the International Unit of the Prosecutor General's Office, a State Prosecutor and three District Prosecutors. The Working Group submitted its final report to the Prosecutor General on 20 December 2013, proposing that ten ethical principles be established (independence, impartiality, incorruptibility, openness, activeness, expertise, responsibility, efficiency, trust and respect for others). The report was also distributed to every prosecutor's office in Finland and to the Association of Finnish Judges for their possible comments. The feed-back was submitted to the Office of the Prosecutor General by 7 February 2014. The Code has not yet been adopted.
38. The authorities also report that ethical principles have been discussed several times by the management group of the Office of the Prosecutor General and by the cooperative bodies of the prosecution service. In addition, ethics for prosecutors have been taught on two courses for prosecutors in 2014. Training on ethical questions has also been provided in the internal training and personnel events of the prosecutor's offices. The same theme was on the agenda in the national event for prosecutors held in March 2014, which was attended by virtually the entire personnel of the prosecution service and a large number of other stakeholders. Furthermore, it is planned to draw up a document providing additional explanations on the principles, to print a poster containing a summary of its most important points and to provide training material for the implementation of ethical principles, which will be included in almost every upcoming training event organised for prosecutors.
39. GRECO welcomes the measures taken in respect of the current recommendation. It is pleased that ethical principles in respect of prosecutors on duty as well as off duty are being established following an inclusive procedure, in which prosecutors from all over Finland have participated as well as other adequate stakeholders. GRECO also commends the authorities on their dedicated plans to continue the work in order to establish additional guidelines for the principles as well as training, which is key to the proper implementation of such instruments in reality. GRECO recalls its repeated position that codes of ethics/conduct should be living instruments which are allowed to develop over time. It is pleased that the Finnish authorities have taken on board such an approach by regularly addressing the ethical principles at training and other events. That said, the code has not yet been adopted formally.
40. GRECO concludes that recommendation viii has been partly implemented.

III. CONCLUSIONS

41. **In view of the foregoing, GRECO concludes that Finland has implemented satisfactorily or dealt with in a satisfactory manner four of the eight recommendations contained in the Fourth Round Evaluation Report.** The remaining recommendations have been partly implemented.
42. More specifically, recommendations ii, iii and iv have been dealt with in a satisfactory manner, recommendation v has been implemented satisfactorily and recommendations i and vi-viii have been partly implemented.
43. As far as members of parliament are concerned, it is noteworthy that only weeks after the adoption of the Evaluation Report a parliamentary working group was established to deal with the recommendations. The Working Group has considered the concerns raised by GRECO. Moreover, commendable changes in the Rules of Procedure of Parliament have considerably enhanced the transparency of possible conflicts of interest in respect of members of parliament. The reporting of outside ties has been made mandatory and subject to public scrutiny, the Parliamentary Office has been made responsible for supervision of the reporting mechanism. Moreover, the Council of the Speaker of Parliament has adopted a code of ethics for MPs which provides further guidance, in particular, on the reporting obligations. The Finnish authorities should be commended for these achievements.
44. In respect of judges, further measures are required in order to regulate accessory activities of judges and complement the "Ethical Principles for Judges", which have been considered too general in nature and to be taking insufficient account of corruption risks. The prosecution service is in the process of developing ethical principles in respect of prosecutors following an inclusive procedure, in which prosecutors from all over Finland have participated as well as other adequate stakeholders. This important endeavour is still to be further processed with the formal adoption of a code of ethics and development of guidelines, training and awareness activities.
45. In view of the above, GRECO notes that in the present absence of final achievements in respect of a number of recommendations, further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months and, it would appear that substantial reforms are underway in respect of the pending recommendations. GRECO invites the Head of delegation of Finland to submit additional information regarding the implementation of recommendations i and vi-viii by 30 September 2016.
46. Finally, GRECO invites the authorities of Finland 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.