

Adoption: 23 March 2018  
Publication: 27 March 2018

Public  
GrecoEval5Rep(2017)3

# FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in  
central governments (top executive functions) and  
law enforcement agencies

## EVALUATION REPORT

# FINLAND

Adopted by GRECO  
at its 79<sup>th</sup> Plenary Meeting (Strasbourg, 19-23 March 2018)



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

COUNCIL OF EUROPE



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## I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in Finland to prevent corruption amongst persons with top executive functions (ministers and senior government officials) and members of law enforcement agencies (more specifically, the Police and Border Guard). It aims at supporting the on-going reflection in the country as to how to strengthen transparency, integrity and accountability in public life.

2. Finland traditionally scores high in perception surveys on the fight against corruption and risks of actual bribery are considered to be low or non-existent. That said, a series of scandals in recent years have brought the integrity of public service into question and have revealed clear instances in which conflicts of interest were not being dealt with appropriately, old boys' networks exchanging favours and brushing the dirt under the carpet, and even schemes of corruption and organised crime permeating Police structures over a long period of time. Furthermore, the country has been severely affected by an economic crisis starting in 2008, which has led to sharp cuts in public budgets and privatisation processes. The provision of public goods and services by private companies is raising additional challenges, also because of the new conflicts of interest that are transpiring from this process; the health sector privatisation reform is, at the moment, the most obvious one.

3. With all this in mind, it must be questioned whether what has been considered the most prominent instrument of Finland to combat corruption, i.e. trust, is in itself alone a sufficiently preventive tool; all the more so, when the trust element is placed in persons rather than procedures. Perception indexes have done meagre service in this regard, inducing self-satisfaction rather than alertness about potential wrongdoing. An Anticorruption Cooperation Network was established a decade ago, primarily to reflect on the recommendations issued to Finland by international anticorruption monitoring bodies; it gathers under its umbrella different governmental agencies as well as non-governmental organisations. An anticorruption strategy is in the pipeline for the period 2017-2021 and awaits government approval, but political consensus on this matter has not yet been reached. Its expedited adoption and subsequent implementation would be a very welcome and positive step.

4. Over the last two decades, the Ministry of Finance has undertaken positive steps to issue guidance materials for public officials regarding ethical matters. It remains important, however, that the government becomes more proactive in developing its members' awareness of their specific integrity challenges and in improving the management of conflicts of interest. Not only must clear standards be set in this respect, but compliance with these must be assured since, at present, the main accountability mechanism boils down to reputational damage or an exceptional impeachment. With this in mind, it is critical to review the current system of immunities and the related procedures which could potentially hamper the investigation of corruption offences. Moreover, the advisory channels for persons entrusted with top executive functions must be built up. Ultimately, ministers and senior government officials are the ones to set the right tone for public administration, and more generally for public life, and to lead by example.

5. As for law enforcement, a high profile scandal within the Helsinki Police has shaken the foundations of an institution with otherwise solid records of public trust. This case has also evidenced the relevance of strengthening the systems to prevent and detect corrupt

behaviour. It is therefore important to assure the public that the Police is gripping the issue and placing increased effort in promoting high standards of integrity within its ranks. In this connection, the Border Guard could also take the opportunity to participate in a review of its own integrity and accountability mechanisms and the tools at its disposal to prevent misconduct. This requires a deliberate anticorruption policy and the development of uniform standards and expectations as to what is acceptable and to what, a *sensu contrario*, is tantamount to unacceptable, unethical, unprofessional or illegal behaviour. There must be a clear message concurrently, not only for all echelons of the respective forces, but also for the general public.

6. Furthermore, stronger processes must be in place for when individual action, including (and in particular) that of leadership, fails, and such processes must be construed with integrity issues in mind. This requires the refinement of risk assessment and intelligence gathering tools, the monitoring and cross-checking of integrity-related registers (e.g. procurement, business interests, expenses, gifts and hospitality, complaints and misconduct data, etc.), and, more generally, a better coordinated and proactive capability to manage corruption risks, threats and vulnerabilities.

7. Finally, adjustments are also recommended to help break any possible sign of a code of silence within the forces, notably, by further developing whistleblower reporting and protection channels. This issue is decisively important for law enforcement: officials should not only be fully aware of the range of available (internal/external) reporting channels, but also trust them.

## II. INTRODUCTION AND METHODOLOGY

8. Finland joined GRECO in 1999 and has been evaluated in the framework of GRECO's First (in June 2001), Second (in July 2004), Third (in December 2007) and Fourth (in March 2013) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website ([www.coe.int/greco](http://www.coe.int/greco)). This Fifth Evaluation Round was launched on 1 January 2017.<sup>1</sup>

9. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Finland to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Finland, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Finland shall report back on the action taken in response to GRECO's recommendations.

10. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Finland from 18 to 22 September 2017, and reference was made to the responses by Finland to the Evaluation Questionnaire (GrecoEval5(2017)6), as well as other information received, including from civil society. The GET was composed of Ms Jane LEY, Senior Anticorruption Advisor, International Narcotics and Law Enforcement Bureau, US Department of State (USA), Mr Fabio SERAGUSA, Law enforcement official, Lieutenant Colonel, Guardia di Finanza Headquarters (Italy), Mr Robert ŠUMI, Head of Research and Social Skills Centre, Police Academy, General Police Directorate, President of the Integrity and Ethics Committee in the Police, Ministry of the Interior (Slovenia), and Mr Oddur VIDARSSON, Legal adviser, Prime Minister's Office, Department of legislative affairs (Iceland). The GET was supported by Ms Laura SANZ-LEVIA from GRECO's Secretariat.

11. The GET interviewed representatives of the Ministry of Justice, the Office of the President, the Prime Minister's Office, the Ministry of Finance, the Ministry of the Interior, the Parliamentary Ombudsman, the Parliamentary Office, the Office of the Data Protection Ombudsman, the Office of the Chancellor of Justice, the Advisory Board for Civil Service Ethics, the National Audit Office, the Office of the Prosecutor General, the National Police Board, the Border Guard and Customs. The GET also met with representatives of non-governmental organisations (Transparency International), trade unions, academia, and investigative journalists.

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<sup>1</sup> More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

### III. CONTEXT

12. Finland has been a member of GRECO since 1999 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption.<sup>2</sup> Finland has achieved a high level of implementation of GRECO's recommendations under each evaluation round. At the closure of procedures on compliance with recommendations, it had reached full compliance in the First, Second, and Fourth Evaluation Rounds. In the Third Evaluation Round, 94% of recommendations were fully implemented, with only one outstanding recommendation being partly implemented<sup>3</sup>. Criminalisation of trading in influence – where Finland has introduced a reservation to the Criminal Law Convention on Corruption (ETS 173) – is a matter that remains live in the internal debate of the country in the context of reform of the Criminal Code<sup>4</sup>.

13. Finland consistently ranks in international indexes as one of the world's least corrupt countries. It holds a remarkable record in Transparency International's Corruption Perception Index, where it has remained in the top three countries over the past five years. This top ranking has also been corroborated in the 2017 [Report on Inclusive Growth and Development Report of the World Economic Forum](#), where Finland is depicted as the fourth best country in the world at fighting corruption. The 2013 [Special Eurobarometer on Corruption](#) ranks Finland among the countries with the least corruption in the EU. According to the Eurobarometer, 29 % of the Finnish population believe that corruption is widespread in their country (EU average: 76 %) and 9 % of the Finnish respondents felt personally affected by corruption in their daily life (EU average: 26 %). About 51 % believe the giving and taking of bribes and the abuse of power for personal gain are widespread among politicians at national, regional or local level (EU average: 56%). Fewer than 1 % of respondents surveyed were asked or expected to pay a bribe over the last 12 months (EU average: 4 %), and 9 % of respondents reported personally knowing someone who is taking or has taken a bribe (EU average: 12 %).

14. Nevertheless, a recent [Report from the Police University College](#) indicated that reported corruption increased 10% from 2011-2014. The report further highlights that the most common forms of corruption are misuse of funds, misuse of information and disclosure of confidential information. In the 2000s, business and public sector organisations increasingly moved their operations to information networks. Simultaneously, the opportunities for crime have increased; due consideration must be paid to this raising trend for corruption prevention purposes. The report concludes that corruption is clearly more common in business operations than in the public sector. A key challenge in the

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<sup>2</sup> Evaluation round I: Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption / Extent and scope of immunities; Evaluation round II: Identification, seizure and confiscation of corruption proceeds / Public administration and corruption / Prevention of legal persons being used as shields for corruption / Tax and financial legislation to counter corruption / Links between corruption, organised crime and money laundering; Evaluation round III: Criminalisation of corruption / Transparency of party funding; Evaluation round IV: Prevention of corruption in respect of members of parliament, judges and prosecutors.

<sup>3</sup> These figures provide a snapshot of the situation regarding the implementation of GRECO's recommendations at the time of formal closure of the compliance procedures. The country may therefore have implemented the remaining recommendations after the formal closure of the compliance procedure.

<sup>4</sup> In an expert opinion on the draft bill to amend the Criminal Code, the Ombudsman has stated that it would be important to criminalise trading in influence. However, he also emphasised that also preparatory acts should be criminalised contrary to what the current proposal envisages. No bill has, as yet, been sent to Parliament.

investigation of corruption related offences is related to evidence gathering and its strength in court: less than 60% of corruption offences are referred for consideration of charges.

15. The 2014 [EU Anticorruption Report on Finland](#) refers to the risk of corruption stemming from an “old boys’ network”, i.e. an informal network of individuals facilitating the exchange among insiders in government and business on the basis of informal relationships. Within these informal networks, money is not necessarily used to pay for services, but instead the members of such networks exchange favours, information or other benefits. This risk has also been highlighted in the latest [Report of the OECD Working Group on Bribery – Phase 4 on Finland](#) (March 2017).



#### IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

##### System of government and top executive functions

###### *The President*

16. Finland is a parliamentary democracy with a multiparty political system and a President as the Head of State. The President is elected by a direct vote for a term of six years, renewable once. Historically, Finland was a semi-presidential regime where the President enjoyed quite a significant amount of executive powers. The new Constitution, adopted in 2000 and further adjusted in 2012, strengthened the position of the Prime Minister and framed the President's reduced powers to cooperation with the government marking the turn to a parliamentary system.

17. According to the Constitution and other acts, as a general rule, the President makes decisions in government on the basis of the motions proposed by the government. The president can also make decisions without a motion from the government in the following matters: the appointment of the government or a minister<sup>5</sup>, as well as the acceptance of the resignation of the government or a minister, calling extraordinary parliamentary elections<sup>6</sup>, presidential pardons<sup>7</sup>, and matters related to the Åland Islands<sup>8</sup>. The President confers decorations and honorary titles. Regarding legislative matters, the President does not have the right of initiative; further, s/he only retains the power of formal confirmation, but no legislative veto. Likewise, the Office of the President does not handle matters related to the preparation, submission or confirmation of legislation and cannot respond to inquiries concerning them.

18. The President is responsible for deciding on the appointment of various positions<sup>9</sup> on proposal of the Government, although, other than in relation to judicial appointments, the

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<sup>5</sup> For the formal appointment of the Prime Minister, the President, having heard the result of consultations between the parliamentary parties and having consulted the Speaker of Parliament, announces a nominee whose appointment has to be confirmed by Parliament. The other ministers are appointed by the President based on a submission made by the Prime Minister. Parliament must be in session whenever a Government is appointed or its membership is substantially changed. In practice, the main role in the formation, functions and dissolution of the government is played by the political parties involved.

<sup>6</sup> The President calls on premature parliamentary elections on a justified submission from the Prime Minister and having consulted the parliamentary parties.

<sup>7</sup> The President can grant presidential pardons only for sentences or penalties imposed for a criminal offence (fine, imprisonment, forfeiture). Matters concerning pardons are prepared by the Minister of Justice after having obtained necessary reports and statements concerning the matter, including from the Supreme Court. General amnesties must be enacted by law.

<sup>8</sup> The President appoints the Åland Governor after agreeing on the appointment with the Speaker of the Åland Assembly, or from among five persons nominated by the Åland Assembly. The President may submit proposals and statements to the Åland Assembly and, in consultation with the Speaker, dissolve the Assembly and order a new election. Legislation enacted by the Åland Assembly is submitted to the President for confirmation in a Government session; if the President refuses to confirm an Act, it will expire. Åland-related decisions are prepared and presented by the Ministry of Justice and the Minister of Justice.

<sup>9</sup> Secretary General and presenters at the Office of the President, the Chancellor of Justice and Assistant Chancellor of Justice, the Prosecutor-General and Deputy Prosecutor-General, ambassadors, Director-General and other directors of Social Insurance Institution, Governor of the Bank of Finland, officers of the Defence Forces and Border Guard, President and Justices of the Supreme Court and the Supreme Administrative Court, Presidents and Justices of Court of Appeal, and other permanently appointed members of the judiciary, as separately provided by law.

President is free to appoint any qualified person who has applied for the position insofar the person forms part of the pre-selection list vetted by others. The Office of the President of the Republic does not take care of matters related to preparing or presenting official appointments and any enquiry in that respect is handled by the relevant ministry.

19. The President is the commander-in-chief of the defence forces, but makes military related decisions in conjunction with the responsible minister. The President decides on matters of war and peace, with the consent of the Parliament.

20. The foreign policy of Finland is directed by the President in cooperation with the government, i.e. all significant decisions in the area of foreign policy must be made together with the government, which does the preparatory work. It should be noted that Finland's entry into the European Union further weakened the powers of the President in the area of foreign relations. As a result, the Constitution now stipulates that the government is responsible for the national preparation of the decisions to be made in the European Union, and decides on the concomitant Finnish measures, unless the decision requires the approval of the Parliament.

21. The GET was told that constitutional amendments have led to changes in the work dynamics of the President and the government, with a substantial limitation of the powers of the former and a prominent role for the Prime Minister in politics. Nowadays, the staff of the President is merely limited to some twenty civil servants: five members of the cabinet responsible for the dossiers of general assistance to the President, foreign and security policy and other international issues, legal matters, domestic issues and communication and media, and 14 assistants. Therefore, in preparing issues for decision-making in the areas that the Constitution still places under presidential co-responsibility (notably, foreign relations), the President is fully dependent on the work carried out by the government and its relevant ministries.

22. As agreed by GRECO, a Head of State would be covered in the Fifth Evaluation Round under "central governments (top executive functions)" when s/he actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

23. The GET notes that the functions of the Head of State in the Republic of Finland are nowadays to a large extent of a formal, representative and ceremonial nature and s/he does not actively and regularly participate in governmental functions. The only exception where the President still holds leadership capacity, pursuant to the Constitution, refers to foreign policy, but even in that case, his/her role has been limited and framed on a cooperation basis with government. On more practical terms, substantive work for this purpose lies with the government, given the limited number of staff working in the Office of the President. As for the President's decisions on those appointments, where s/he has discretion to appoint any qualified person, such decisions follow a pre-selection qualification determination process in which s/he is not involved. It therefore follows that the functions of the President of the Republic of Finland do not fall within the category of "persons entrusted with top executive functions" (PTEF) as spelt out above. That said, given the powers that could be

exercised and, given the statements made to the GET regarding the respect afforded the President by the citizens of Finland, as a recognition of this leadership role, a public statement by a current and any new President that he or she will personally abide by the same standards as those required of the senior leaders of government would be a very welcome step in helping to maintain a culture of integrity in Finland.

### *The Parliament*

24. The Parliament is made up of 200 members elected every four years. The Finnish Parliament is unicameral. Parliament enacts Finnish law, approves the state budget, ratifies international treaties and oversees the government. Parliament also has a leading role in choosing the Prime Minister and approving the government programme.

### *The Government*

25. The current Finnish government comprises 12 ministries. Each ministry is responsible for the preparation of matters within its mandate and for the proper functioning of administration. Currently (in September 2017) there are 11 male and six female government members (65% - 35% male/female ratio). In this respect, GRECO draws the attention to the Committee of Minister's Recommendation [Rec\(2003\)3 on balanced participation of women and men in political and public decision](#), according to which making balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%. Members of the government can and in practice very often simultaneously hold a parliamentary mandate. Currently (September 2017), every minister holds a parliamentary mandate.

26. The division of the government's decision-making authority between the government plenary session and the individual ministries in governmental and administrative matters is provided for in the Constitution and the Government Act. More detailed provisions are made in the Government Rules of Procedure<sup>10</sup>. Appeals against the lawfulness of governmental decisions are possible before administrative courts, but the GET understood are usually made to the Supreme Administrative Court.

27. The Chancellor of Justice and the Ombudsman are responsible for overseeing the lawfulness of the acts of the government and the president; as indicated before, the Parliament has also a key role in assuring both political and legality oversight of the executive (see section on accountability and enforcement mechanisms).

### *Status and remuneration of persons with top executive functions*

28. The Prime Minister is elected by Parliament and formally appointed by the President. Before the Prime Minister is elected, the groups represented in the Parliament negotiate regarding the political programme and composition of the government. On the basis of the outcome of these negotiations, and after having heard the Speaker of the Parliament and

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<sup>10</sup> In particular, decisions in plenary sessions concern proposals to be submitted to the President of the Republic, Government decrees and Government statements, reports and communications to Parliament as well as such matters to be dealt with by the European Union and other matters whose public policy or financial importance calls for such decision-making. Decisions concerning issues other than these are taken by the ministries.

the parliamentary groups, the President informs the Parliament of the nominee for Prime Minister. The nominee is elected Prime Minister if his or her election has been supported by more than half of the votes cast in an open vote in the Parliament. If the nominee does not receive the necessary majority, another nominee shall be put forward in accordance with the same procedure. If the second nominee fails to receive the support of more than half of the votes cast, the election of the Prime Minister shall be held in the Parliament by open vote. In this event, the person receiving the most votes is elected.

29. Ministers are formally appointed by the President, in accordance with a proposal made by the Prime Minister. The Constitution specifically calls for honesty and competence as key requirements for appointment. Ministerial responsibility is both political and legal in nature. Legal responsibility means that the legality of actions by ministers is subject to investigation by the High Court of Impeachment.

30. Other top executive functions in government are as follows: State Secretaries, Permanent Secretaries of a ministry and Permanent State Under-Secretaries, as well as special advisers (as of September 2017, there are 40) who serve as political assistants to ministers. State Secretaries and Permanent Secretaries/Under-Secretaries (civil servants) of a ministry are appointed by the government. Ministers' special advisers (civil servants) are appointed by the Prime Minister, on a proposal from the relevant minister. They can be appointed without a public application procedure, hold contracts of fixed time duration and their term of offices ceases on the same day as the minister's. Their contracts can be resolved under justified reasons (including loss of trust) with prior notice (or without prior notice in the event of a serious breach or neglect of duties). They are bound by the same rules and regulations as other civil servants, and therefore, they all fall under the general regulatory framework provided by the State Civil Servants Act.

31. The range of salaries for the aforementioned posts is as follows:

Post	Salary
Prime Minister <sup>11</sup>	10 900 €/month
Minister <sup>12</sup>	9 100 €/month
Permanent Secretary	11 532 - 12 881 €/month
State Secretary	9 503 €/month
State Under-Secretary	9 374 – 11 229 €/month
Special advisers	4 210 – 7 562 €/month

\*Note: Between 1.1.2016 and 31.5.2019, salaries are temporarily cut by 7%. Likewise, the possibility to resort to complimentary payments through the so-called performance and leadership contracts has been frozen due to the economic crisis and the severe austerity measures implemented in the public sector.

32. As applicable, provisions on allowances reimbursing government employees for travel expenses are followed with regard to the reimbursement of ministers for official journeys. A minister can use the government car services. As regards accident

<sup>11</sup> The salary paid to the Prime Minister equals that paid to the Speaker under the Act on Pay to Members of Parliament minus seven per cent.

<sup>12</sup> The salary of a Minister equals the sum payable to the deputy speaker of Parliament under the Act on Pay to Members of Parliament minus seven per cent.

compensation, occupational health care and medical and other health care services, a minister is subject to the associated provisions on government employees.

33. The Prime Minister is provided with housing in a state-owned building and the State is responsible for the costs incurred due to its maintenance, heating, lighting and furnishings, plus the necessary staff. Based on a decision by the Prime Minister's Office, a minister is reimbursed for reasonable extra costs associated with ministerial responsibilities.

34. The possibility to have a mobile phone as a fringe benefit during the term of office exists; the Ministry of Finance must be notified if this benefit is granted. As a rule, no other taxable benefits are available.

35. The state budget is public. The government bill for the budget of the state is public as well as the Ministry of Finance's first stand on the budget and all the materials for Parliament. In addition, the end-of-year accounts of each ministry are public. The final central government accounts are also public as well as the auditor's annual report. Another publicly available key document here is the Government Annual Report, submitted to Parliament, which includes information on developments and risks for government finances and the public sector, as well as the policies practiced and their impact in budgetary terms, etc. Information on public procurement made by the different ministries and state agencies is accessible online<sup>13</sup>.

#### *Anticorruption and integrity policy, regulatory and institutional framework*

36. A national anticorruption strategy and action plan, for the period 2017-2021, are in the process of being drafted. The draft strategy identifies stronger administrative cooperation to prevent corruption; awareness raising; greater transparency; stronger protection for whistle-blowers; enhanced anti-bribery legislation; and more research into corruption as areas requiring work. A multi-stakeholder working group (so-called Anticorruption Cooperation Network) convenes regularly; the need for an anticorruption strategy is perceived as crucial for rendering anticorruption efforts more coordinated and effective. However, broad political support has not yet been ensured, neither have financial resources been secured.

37. Finland does not have a separate anticorruption agency or commission. Instead, several institutions (among others the Ministry of Justice, the Ministry of Finance, the Ministry of the Interior, the Office of the Prosecutor General, the Police) partake in the fight against corruption. The overall responsibility for the coordination of anticorruption efforts lies with the Ministry of Justice of Finland. The Ombudsman has emphasised the need to establish a special unit for corruption prevention in the Ministry of Justice; at present, it is the Ministry's Department of Criminal Policy, which carries out that role. That office is responsible for international cooperation (dialogue, reporting, technical support etc.) in the field of anticorruption, support and advice to national institutions on issues related to anticorruption, preventive efforts and coordination of the national Anticorruption Cooperation Network.

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<sup>13</sup> <https://www.tutkihankintoja.fi/>

38. The GET sees merit in the adoption of a devoted anticorruption policy, which includes concrete indicators of achievement and effective means for implementation, and urges the authorities to proceed with the reported plans. The GET trusts that the recommendations included in this report further contribute to the identification of areas that need additional development.

#### *Ethical principles and rules of conduct*

39. Since the mid-1990s, the Ministry of Finance has been the responsible body for ethical matters for the different echelons of public administration (including special advisors and senior civil servants). There is no code of conduct as such, but the overall principles of good administration are defined in the Constitution, as well as in the Administrative Procedures Act (hereinafter APA). In 2005, the Ministry of Finance issued a handbook for the state administration entitled "Values in daily job - Civil servant's ethics". The Handbook is based on eight cornerstone values: 1. Effectiveness; 2. Transparency; 3. Quality and Expertise; 4. Trust; 5. Service principle; 6. Impartiality and Independence; 7. Equality; and 8. Responsibility. The Ministry of Finance has issued additional guidance and instructions concerning benefits, gifts and hospitality (guidelines issued in 2010), outside employment and disqualification (instructions issued in 2010, and then again in 2017 repealing the former), and post-government employment waiting periods (instructions issued in 2012, and then again in 2017 repealing the former)<sup>14</sup>. The aim of the Ministry of Finance is to bring together all these documents to ensure that they form a coherent collection of ethical standards which are easily accessible through the Ministry's webpage. The aforementioned standards apply to PTEF (other than ministers).

40. The Prime Minister's Office is responsible for ethical matters regarding ministers; its advisory role in this area is complemented by the Chancellor of Justice. There is a Handbook for Ministers (2015) on the principles of good administration that should lead the carrying out ministerial duties as a member of government (e.g. in relation to decision-making, operation of government, public finances management tools, bill drafting, and relations with Parliament). The Handbook is rather general and the GET learned that the Prime Minister's Office is now drafting separate guidance on the acceptance of gifts by ministers. Finally, the Parliament has established a code of conduct that applies to ministers who are also members of parliament. No track records are being kept on ethical breaches by PTEF, although the authorities indicated that there are very few cases of misconduct annually.

#### *Awareness*

41. The primary responsibility for promoting ethics and integrity specifically amongst PTEF lies with the Ministry of Finance and the Prime Minister's Office. An Advisory Board for Civil Service Ethics, set up in 2014, is responsible for giving general guidelines about civil service ethics<sup>15</sup> (the advisory Board decides itself which ethical issues it takes for consideration). It was initially anticipated the Board could provide individual advice, but since the passage of the post-employment law that became effective January 1, 2017, it is

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<sup>14</sup> Guidelines of the Ministry of Finance on Hospitality, Benefits and Gifts (2010). VM/1592/00.00.00/2010  
Instructions of the Ministry of Finance on Outside Employment, Disqualification (2017). VM/561/00.00.00/2017  
Instructions of the Ministry of Finance on Post-Government Employment Waiting Period Agreement (2017). VM/1577/00.00.00/2017

<sup>15</sup> This term also includes persons entrusted with top executive functions (PTEF).

clear that the Board does not have that authority. There is no targeted training for PTEF on ethical matters, but they can turn for advice to the Public Governance Department of the Ministry of Finance. Further activities are planned which include additional awareness-raising materials for civil servants at all levels and multi-stakeholder training sessions. More particularly, an on-line training package is being prepared, under the leadership of the Ministry of Justice and with the involvement of some of the members of the Anticorruption Cooperation Network. It includes three training modules dealing with (a) definition and forms of corruption, (b) causes and consequences of corruption and tools to combat corruption, (c) every public official's role in the fight against corruption (what can each and every one do in practice?); separate modules for other target groups and around specific subthemes are being considered. A new anticorruption website, aimed at raising awareness on the topic among different audiences, is also in the pipeline; its conceptual design has started, under the aegis of the Ministry of Justice, with the involvement of some members of the Anticorruption Cooperation Network.

42. The GET was reminded, throughout the on-site visit, of the positive anticorruption records of Finland in different public perception polls along the years. Indeed there was no indication of actual bribery, but what emerged in the context of the discussions held was disquiet for the type of an old boys' network tainting public life, i.e. smaller groups of political or social elite who trust and watch out for each other – a type of conduct which may not be illegal *per se*, but which would not be acceptable under a non-criminal code of conduct. For this reason, while guiding principles and rules may exist in legal provisions and manuals/handbooks, the lack of a code of conduct for the highest echelons of government is a particularly relevant shortcoming in the Finnish context.

43. To be clear, for the GET, what is important is not so much whether the relevant instruments containing integrity rules are called codes of conduct or guidelines. What matters is that the instruments are transparent and functional. The same is true for their application. Against this background, when testing the system in practice, the GET could not always get clear answers on practical arrangements and procedures. This was particularly relevant regarding ministers where the GET considers that the efficiency of the applicable integrity rules is hampered by the fact that the accountability system and advisory roles are spread across various institutions, including the Ministry of Finance, the Prime Minister's Office, the Chancellor of Justice, the Parliamentary Ombudsman and, to some extent, the Constitutional Committee.

44. The manifestation of this problem became apparent on-site, where many senior government officials seemed uncertain of appropriate channels for integrity issues surrounding ministers. The same applies, to a certain extent, to other PTEF - state secretaries, special advisors and senior civil servants - who fall, in principle, under the general civil service regime and its applicable rules, but who may face similar challenges and ethical dilemmas as those of ministers in their daily routines because of the type of top management/decision-making work they perform. There was no record of decisions being taken in this field along the years for these individuals, which is regrettable given the value that such a tool could have in ensuring that ethical rules are applied consistently across the line.

45. A code of conduct that has non-criminal penalties could cover, *inter alia*, the use of information that is not secret but is not generally known, the use of government resources

that did not rise to the level of a crime, gifts that aren't bribes, disqualification for apparent conflicts arising out of previous employment or activities for those coming into office, reporting any negotiations for future employment, using one's official title for other than official purposes, representing a non-profit entity or a person to another ministry, not one's own, or dealing with lobbyists or other third parties seeking official action. The relevance of incorporating several of the aforementioned features is further developed later in this report. Putting these standards in one public document and having leaders publicly hold themselves out as being accountable to it should help with creating and maintaining joint expectations between the public and the government that will justify the trust Finland has relied upon in the past.

46. It is the view of the GET that ministers and other persons entrusted with top executive functions must set the right tone for public administration, and more generally for public life, and should lead by example. Further, as will be noted later in this report, the current recusal, gift and financial disclosure rules give a great deal of personal discretion on how to act, what to accept and what to disclose. For this reason, it is particularly important that these persons, as well as the general public, are clear as to the applicable standards; in which case codification can well prove an asset. The (non-criminal) enforceability of such a code would also have obvious merits, as it could provide additional proportionality to the accountability of ministers who have little or none for official misconduct other than through the impeachment process. Likewise, the current institutional framework for overseeing ethical matters regarding ministers would benefit from some streamlining: a single administrative body should be responsible for implementing, reviewing and updating ethical rules. GRECO recommends (i) that a code of conduct for ministers and other persons entrusted with top executive functions be adopted, published and complemented by a system for providing guidance and confidential counselling regarding conflicts of interest and other integrity related matters (gifts, outside activities, third party contacts and the handling of confidential information), and (ii) that it be coupled with a credible and effective mechanism of supervision and sanctions. GRECO recognises that such a code may very well be developed through adaptation and consolidation of a variety of current standards as well as the inclusion of additional provisions addressing the types of topics discussed in paragraph 45.

47. In 2015, the Ministry of Finance, in a valuable and commendable effort to advance its policy regarding integrity in public service, conducted a survey on the ethical values and principles of central government employees. The results pointed at a shared ethical culture where independence, impartiality, expertise and adherence to the rule of law are the chief values; openness, trust and the service principle come after these. The survey did, however, also evidence additional claims from civil servants concerning, for example, the accessibility of ethical materials, the clarity and applicability of certain rules (e.g. access to public documents and confidentiality, disqualification, gifts and hospitality, post-employment, social media), the opportunities for dialogue and assistance regarding ethics, etc. In short, it emerged from this exercise that much more could be done than merely distributing a manual to individuals upon their taking office. The creation of an Advisory Board for Civil Service Ethics is a recent development; however, this body suffers from limitations that are probably not well understood by the public and possibly within the government. This lack of understanding may provide more confidence in the ethical advisory system than it should. Limitations include the fact that the Board cannot provide advice in individual cases, can



only issue opinions on general topics, it cannot deal with complaints and it is not empowered with any authority to enforce its recommendations<sup>16</sup>.

48. More particularly, regarding training on ethics and integrity related matters for PTEF, the authorities indicated that there is currently no specific ethics or integrity training and that these matters are rather covered in the framework of the general training courses available for the executive level. Guidance on ethical matters happens more or less only on an ad-hoc basis, when so requested by the office holder. The authorities, nevertheless, indicated that an on-line training package is being prepared; it remains undecided whether or not the training will be compulsory for anyone including PTEF. While these plans appear to be genuine and based on good intentions, the GET notes that currently it is possible for PTEF to be appointed for office and serve their terms without ever receiving dedicated integrity training. While some ethical topics are covered in the general training for government staff, the GET understands from interlocutors that it is not common for higher ranking officials, including ministers, state secretaries and other PTEF, to attend these sessions. Although helpful, handbooks or guidelines cannot be a direct substitute for compulsory training in these matters, as it is impossible to ensure that staff familiarise themselves with their contents. GRECO recommends (i) providing compulsory dedicated integrity training to all persons entrusted with top executive functions at central government level, at the start of their term, to include issues such as ethics, conflicts of interests and prevention of corruption; and (ii) further requiring them to participate in regular integrity training throughout their time in office.

#### Transparency and oversight of executive activities of central government

##### *Access to information*

49. The general principles of openness, transparency and publicity of public administration are considered the main guarantees against corruption in Finland. According to the Constitution, everyone has the right of access to an official document which is public and all documents are public unless a decision of secrecy has been taken. Such a decision must be based on the Act on the Openness of Government Activities (621/1999), which exhaustively lists the grounds for keeping a document secret. A decision on secrecy is made in individual cases; such decisions must be based on the Act on the Openness of Government Activities or another law.

50. The law also contains provisions on how the right to access to official documents shall be exercised in practice. This includes duties of authorities to positively promote information. Public documents are to a large extent electronically accessible. Access to documents can be requested in various ways; orally, by phone, in writing, by e-mail or by visiting the authority. Documents are provided at cost price. The Information Management Unit of the Prime Minister's Office is responsible for the document and archives management, registry services and related information and customer services of all ministries.

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<sup>16</sup> The authorities referred to their intention to formally regulate the position, role and tasks of the Board in the State Civil Servants Act; work in this area is expected to commence in 2018-2019.

51. The Government website provides information on the presidential sessions and government plenary sessions on a regular basis. Summaries of the sessions of the Ministerial Finance Committee, government plenary sessions and presidential sessions are released. They are posted on the Government's website right after the session. Additionally, the documents underlying the decisions made at the sessions are published, except for annexes containing personal details. One example of such annexes released only to the media is the appointment memoranda. At the same time, the individual ministries are active in communicating decisions made in their respective administrative sectors on their websites. During government plenary sessions, media representatives are allowed access to what is known as the 'presenters' lounge'.

### *Transparency of the law-making process*

52. The Act on the Openness of Government Activities 621/1999 and the Decree on the Openness of Government Activities and on Good Practice in Information Management 1030/1999 lay out detailed rules on transparency of legislative drafting; these are complemented by separate guidelines, all of which are available under the Finlex web portal<sup>17</sup>. Consultation with the public and with experts takes place from the preliminary stages of law making and at different intervals until the draft is transmitted to Parliament. The feedback gathered in the course of these consultations is also made public and referred to in the government's bill. There are dedicated portals in place to increase transparency of decision-making processes and to encourage citizens to voice their opinions (e.g. Lausuntopalvelu.fi and the "Have your say" –service Otakantaa.fi). An independent Council of Regulatory Impact Analysis was established in 2015; it is responsible for issuing statements on government proposals and on their regulatory impact assessments. The Council's statements are published online.

53. The GET was told that Finland has worked off the principal of transparency and trust. There is a substantial amount of transparency of government documents through general posting; there are however, a significant number of exceptions in the access to information law when it comes to documents that are not voluntarily posted. What also appears to be missing are the types of transparency that are becoming more established in governments focused on prevention. These include more public information on the financial and other ties of ministers and other PTEF (and immediate family) and potentially the sharing of information that is not generally public, but not necessarily in a document—information that can be quite useful for those outside of the government with whom a public official chooses to share. While the GET heard that Finnish society in general valued individual privacy, the information that would normally be very useful to help support the trust expected by public officials with regard to their actions was not shared. For example, the GET was made aware that the visitors logs for Parliament were destroyed after a member of the public made a request to see them. Concern for that type of privacy does not bode well for expecting the "trust" part of the general governance culture of transparency and trust to continue. Further, the GET was concerned as it heard that it was unclear how openness/information access requirements would apply in a context of growing privatisation of public services; this can raise considerable disquiet given the public interest of the privatised sectors at stake, e.g. health, education, etc.

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<sup>17</sup> Guide on the Legislative Drafting Process, Guide for Drafting a Law, Guide on EU-matters for Drafting a Law, Tools for Executing Public Hearings, and Tools for the Assessment of Equality. For further information, see Finlex portal (<https://www.finlex.fi/en/>).

### *Third parties and lobbyists*

54. There are no rules in place that regulate contacts of PTEF with third parties and lobbyists. There are also no reporting or disclosure requirements applicable to those who seek to influence government actions and policies. It was clear to the GET that PTEF and the public have no clear understanding on what standard of conduct should be expected of either the public official or the private representative. And, as PTEF are the most senior officials responsible for helping develop the government's legislative proposals and executing and implementing laws in concrete instances once enacted, they have a more direct opportunity than MPs to affect the public and the private sector.

55. While Finland does have substantial transparency with regard to developing legislation and policies through open procedures, onsite when attempting to elicit practical information on just what information is public about situations where lobbyists often interact with PTEF, the GET found that the authorities were unsure whether the calendars/diaries of PTEF were public documents (and later confirmed that they were not), or that conversations on specific draft legislation or policy proposals in the course of public comment would have to be memorialised for the public record. The authorities felt that any decisions made at the end of those processes that could not be traced to publicly available documents would raise questions. It was not clear, however, how the process of raising questions at that point would be handled.

56. The GET was not made aware of any specific instances where there was a concern for an unexplained change in public policy that had gone through a notice and comment process, but it heard concerns about former high level officials or special assistants who were now representing private interests back to the officials with whom they had just worked on matters in which they had just worked, or on significant procurements. The actions of both sides of this lobbying equation should be subject to some clear transparent lines. In addition, dealing with the transparency of lobbying should partially help with addressing public claims of clientelism and privileged power and information networks in the country.

57. The traditional reluctance of Finland to deal with lobbying appears to be fading away. The authorities admitted that attitudes are changing, with a number of politicians and lobbyists actually calling for a lobbying register and common rules applicable to all lobbyists. The Anticorruption Cooperation Network has furthermore stated that open hearings and access to official documents do not in themselves guarantee information about lobbyists, their sources of funding, priorities, actions, etc. The draft anticorruption strategy calls for the establishment of a register of lobbyists and a common code of conduct for all actors engaged in lobbying activities. The GET can only agree with this new approach in Finland recognising the significance of lobbying in the national context and, therefore, encourages the on-going reflection. As underscored earlier, with regard to the government half of the lobbying equation, written enforceable standards on the interaction of at least ministers (and their cabinets) with lobbyists and other third parties attempting to influence their actions must be specifically incorporated in the recommended code of conduct (recommendation i, paragraph 46).

## *Control mechanisms*

58. At each ministry the Permanent Secretary is responsible for internal control and arranging internal audit. The internal audit reports to the Permanent Secretary. The National Audit Office (NAOF) is Finland's Supreme Audit Institution and operates as an independent institution affiliated with Parliament. It has four types of audit: performance audit, financial audit, compliance audit and fiscal policy audit.

## Conflicts of interest

59. There is no definition of conflict of interest in Finnish law. There are, however, other restrictions that can be akin to incompatibilities restrictions and conflicts of interest restrictions.

60. The Constitution bars a minister from holding any public office or undertaking any other task which may obstruct the performance of his/her ministerial duties or compromise the credibility of his/her actions as a minister. In addition to this constitutional provision, for ministers, other PTEF and special advisors, the APA lays out a series of circumstances where they (as well as all other civil servants) should not participate in their official capacities. In respect of the above, the GET considers that the APA sets out a fairly reasonable and inclusive list of situations requiring disqualification, including where the official or a "close person" (a term defined in the law): is or represents a party; stands to gain a specific benefit or suffer a specific loss; holds a leading position in an organisation that is a party or stands to gain or suffer a specific loss; or the matter involves the supervision or oversight of the organisation. There is also a general disqualification requirement where the official's impartiality is compromised for another special reason (Section 27, APA).

61. That said, for individual acts, the need for disqualification is determined by the public official him/herself. A substitute shall be assigned to replace an official who disqualifies him/herself, unless the matter is urgent (the law does not provide specification on what an urgent matter may be) and the decision cannot be affected by the disqualification. If the official is a member of a multi-member body, the decision as to whether the person should actually be disqualified is made by that body and is not subject to appeal.

62. The GET is of the view that, while the circumstances that would create requirement for disqualification are fairly broad, the systems in place to help prevent or counsel against a PTEF from acting in such a matter are weak. There is no general education and training programs specifically to sensitise them to the issues requiring disqualification. Written guidance, such that it is, seems to be scattered in various other texts—Minister's handbook, Ministry of Finance particular instructions on separate matters (gifts, outside employment and disqualification, post-employment). While ministers file a declaration of interests form (and the separate form required of an MP if they are both) and other PTEF (except special advisors) file a disclosure of financial and other outside interests form, there is no established system or general review standards in place for a non-political body or person to review the forms for even general completeness or correctness or to help advise and remind the PTEF, based on the information contained in the reports, of matters where disqualification would be required. The GET heard that each authority that receives a report for a PTEF who will serve within that authority has established some system of review, but

the procedures followed and possibly the standards applied did not appear to be consistent across public authorities.

63. During the course of the visit, however, the GET learned that the Finnish administration had just launched a new on-line system of making all invoices for the expenditure of state funds available to the public. The system is administrated by Hansel, which is the government's central purchasing body. The data available can be searched by what government entity purchased the goods or services, who was paid, what was purchased, how much was paid and when. To the extent that the public has access to the financial portions of the ministers' and other PTEF's forms, this information should make it much easier to detect first the initial procurement and then oversight situations where disqualification was or is required. Other information of course will have to be obtained to determine if disqualification actually occurred.

64. Further, the GET understood that any advice or guidance received, except during the decision to appoint process, is triggered purely at the request of the PTEF. The GET heard that minister candidates receive "unofficial" advice from the Chancellor of Justice and can reach out to the office throughout their terms. Other PTEF are able to reach out to various individuals within the organisations in which they serve. Even at that, advice based on the information reported on the declarations and disclosures has its limitations as those forms do not require the reporting of substantial portions of information that trigger the need for disqualification, and only a portion of the information that is reported is made available to the public for the possibility of their making their own determinations on potential conflicts. For more details on financial disclosure forms, see paragraphs 83-95.

65. In light of the aforementioned remarks, GRECO recommends that a formal system or systems for review of the declarations of ministers and disclosures of other persons entrusted with top executive functions be established or enhanced, and that the reports filed be used by trained reviewers as a basis for individual counselling regarding the application of rules dealing with disqualification, outside activities and positions, and gifts.

#### Prohibition or restriction of certain activities

##### *Incompatibilities, outside activities and financial interests*

66. Secondary activities for public servants including PTEF are acceptable only if they do not jeopardise trust in impartiality of the official function. Engaging in ancillary activities requires either permission from or disclosure to the relevant authority; it is for the ministry in which a public official works to grant the respective authorisation. A secondary occupation must not cause disqualification in customary official duties and it must not adversely affect discharge of official duties. A permission, which can always be rescinded, is based on a risk assessment of the impact of the ancillary job on the impartiality and proper performance of the public official.

67. Ministers are subject to even more stringent requirements in this respect than other public servants. They must give up any duty held before appointment, which could obstruct the performance of the ministerial duties or compromise the credibility of their actions as members of government. Duties regarded as obstructing the performance of the ministerial duties are such that make the minister disqualified from performing his/her key official

duties or which require so much time that they would prevent the minister from fully attending to his/her official duties. Political oversight of this standard is left to Parliament while the Chancellor of Justice endeavours to but cannot require ministers to divest or resign from financial arrangements or positions that meet this test. The requirement is to recuse.

### *Contracts with state authorities*

68. Other than the aforementioned incompatibilities, as well as the general legislation on public procurement, there are no other specific prohibitions or restrictions on PTEF entering into contracts with State authorities.

### *Gifts*

69. There is a general ban on any financial or other benefit which may weaken trust in public authority. The assessment of the acceptability of a gift is made from an outsider's point of view and no particular monetary limits have been established. In individual cases, the issue is resolved taking into consideration the official's position in the organisation, his/her duties, the kind of benefit in question, whether it is repeated in time, and other circumstances surrounding the act. The Ministry of Finance has issued general guidance for public officials (2010) on gifts, sponsorship, meals, special functions related to a partner's own operation and travel.

#### *Ministry of Finance – Guidelines on Hospitality, Benefits and Gifts*

Defining the boundaries between accepting permissible and forbidden benefits is not unequivocal, so that the primary approach should be one of restraint. The following considerations must guide conduct in relation to the acceptance of gifts:

- necessity and usefulness of the benefit in performing the official duties
- matters concerning the giver of the benefit pending with the public authority
- potential influence of the beneficiary
- goals of the party offering the benefit
- whether or not the benefit is customary
- importance of the official role
- position of the official.

It is also significant whether the benefit is offered at some function to a larger number of civil servants or to an individual official.

70. The GET could not gather unequivocal answers to its practical questions on gifts, as applied in the particular context of PTEF. The GET was however told that special guidance on gifts and hospitality for ministers is under preparation; this is a welcome sign given, for example, the criticism already expressed by the Ombudsman regarding some unregulated grey areas, e.g. participation in/invitation to events, which could be of particular relevance for PTEF. More recently, and following GRECO's Fourth Evaluation Round, members of Parliament have recognised that establishing publicly known, reasonable standards on the receipt of gifts helps support their efforts to maintain the public's trust. It is the GET's view that PTEF, who have more direct effect on the public through the implementation of laws, should do so as well; the recommended code of conduct should contain specific rules for the receipt, reporting, and/or return of gifts (recommendation i, paragraph 46).

### *Misuse of public resources*

71. The misuse of public resources constitutes a criminal offence of embezzlement (Chapter 28 of the Criminal Code, Sections 4-6) or misuse of position of trust (Chapter 36 of Criminal Code, Section 5). It falls also under the different offences categorised as breach of duty (Chapter 40 of Criminal Code).

### *Misuse of confidential information*

72. The misuse of confidential information constitutes a criminal offence under Chapter 38 of the Criminal Code – namely, “secrecy offence” (Section 1) and “secrecy violation” (Section 2), as well as Chapter 40 of the Criminal Code – notably, “breach and negligent breach of official secrecy” (Section 5).

73. There are specific requirements to prevent the phenomenon of insider trading where officials may, due to their position, gain access to information classified as insider information. Special care and caution need always to be observed in respect of insider information and, if necessary, special steps need to be taken to ensure that the recipient understands that s/he is receiving insider information. Any misuse of insider information is punishable by law. Each individual is required to personally determine whether the information in their possession is insider information or not.

74. An “old boy system” works in part with a desire to help friends not with a specific *quid pro quo* in mind but an overall helping those among a limited group whom one trusts, possibly through family networks, business networks, political networks and social networks. It thrives best in situations of limited transparency, for example, with conversations about information that may or may not be public upon request but is certainly not generally well known. This could happen with a call from one minister to another about a matter the first has no authority for but has a friend who is interested in something that is pending in the second ministry. Finland only deals with the disclosure of information as a criminal matter, and the restrictions on release of information generally only covers disclosing specified documents or information from specific documents. The GET heard what makes information “secret”, and thus not required to be disclosed, is always an issue and it takes time to get information that is not already posted on the internet. The use of information is a key matter to be developed in the recommended code of conduct (recommendation i, paragraph 46).

### *Post-employment restrictions*

75. In Finland, mobility between the public, private and third sector (non-governmental/non-profit organisations) is not only possible, but also recognised to be desirable (Advisory Board for Civil Service Ethics, 2014). That said, post-employment requirements for all civil servants except ministers were introduced by law in 2017 (Section 44a, State Civil Servants Act, which entered into force on 1 January 2017), and the Ministry of Finance issued instructions thereafter to help authorities draft standardised contractual terms for the so-called “waiting period agreements”. Based on the law, the authority and the person who will be appointed to an office as a civil servant may sign a written contract that restricts the latter’s right to employment or engagement in other activities if s/he wishes to give his/her notice. The agreement also binds the civil servant in cases where a fixed-term

appointment comes to an end, as well as if the civil servant has been given notice or in cases of cancellation of a civil service relationship. An agreement on a waiting period is not binding on a civil servant whose public office relationship ends due to a reason attributable to the employer.

76. The law provides that the length of the restriction is subject to agreement but with a maximum duration of six months. It is the employing authority's right to consider whether to impose the restriction period. The civil servant is remunerated for an equivalent period. The agreement can also include a provision on a contractual penalty whose maximum amount is twice the amount paid. The basis for imposing a restriction requires the civil servant to have, in that position, access to information that is secret or otherwise protected by provisions that restrict publicity, which could be essentially used to the benefit of oneself or another in the new position. In such cases, the agreement is a prerequisite for appointment.

77. As noted, the aforementioned rules apply to PTEF, with the exception of ministers. The Advisory Board for Civil Service Ethics issued a recommendation in connection to the latter<sup>18</sup>. Notably, it is proposed that, when the government is formed, the prospective members of the government undertake to disclose any intention to assume other duties after their appointment as ministers<sup>19</sup>. Such undertaking would specify the preconditions for the acceptance of another position if the minister's transfer to other duties will result in a conflict of interest in view of his or her previous area of responsibility, duties or field of activity or if the transfer is otherwise likely to erode confidence in public administration. The announcement (with an explanation of the reasons) would be made to the Prime Minister and the Advisory Board before the minister commits to the new activity to make it possible to evaluate the possible conflict of interest. The Advisory Board will issue a statement which is public as provided in the Act on the Openness of Government Activities and may contain a recommendation for a maximum quarantine period of six months before the assumption of the new position. The specifics and duration of any quarantine period would be determined on a case-by-case basis following receipt of the notice. Further, the Advisory Board is of the view that it might be necessary to evaluate whether legislation related to a minister's departure from public office should be introduced; that regulation, however, should not unnecessarily restrict the mobility of labour.

78. The GET was told that moving in and out of government not only occurred but was expected. The potential conflict of interest and misuse of information issues that arise with this type of "revolving door" can be quite significant. With regard to coming into the government from the private sector, Finland has no restrictions, for example, with regard to taking official actions on matters in which the person participated while in the private sector, or which involve the individual's former employer. As far as leaving the government for the private sector, there are no requirements for any civil servant or PTEF in the executive for transparency or recusal when an individual begins to negotiate for employment outside of the government, nor are there any established post government restrictions on conduct (other than forbidding the disclosure of "secret" information).

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<sup>18</sup> [Recommendation of the Advisory Board for Civil Service Ethics dated 22 September 2014](#) (in Finnish version only).

<sup>19</sup> At the beginning of its term, the current government made a commitment to inform, in a timely fashion, of any intentions of its members to move to other duties.



79. More specifically, as noted previously, Finland does not have any statutory post-employment restrictions for ministers. The GET was told that current ministers were voluntarily agreeing to restrictions but there was no information on any application. The voluntary commitment was set out in a Ministers Commitment document, but it relies on the minister getting advice from the Advisory Board for Civil Service Ethics, which, at present, is not empowered to give individual advice.

80. As for other PTEF and civil servants, a new post-employment provision came into effect on 1 January 2017<sup>20</sup>. The application of the rule relies on the discretion of the government institution in which the person will be serving to determine if the individual who will be joining the institution will have sufficient access to certain information so as to justify a restriction, and the law also gives the institution total discretion on how long the restriction should last (up to six months). This is an employment ban, not a restriction on certain types of activities, and, if applied, the individual will be paid by the government during the period of the ban. In August 2017, the Ministry of Finance issued an instruction on waiting periods for post-employment arrangements, as well as the model for the post-employment waiting period agreement, but at the time of the on-site visit no government institution had yet to apply the law and there was no common understanding of how this should be done in real practice given its novelty.

81. There is no one best way of addressing the potential integrity issues arising out of the movement of individuals in and out of government. There are, however, some obvious gaps in the method that has been selected by Finland. The conflicts that arise with regard to former private sector activities could be addressed through an amendment to the law requiring recusal or through a code of conduct with administrative restrictions. The same could be true for the conflicts that can arise when a public official begins to negotiate for employment in order to leave public service. The manner in which one can enforce restrictions applicable to the activities of a former public official has more practical limitations as the individual is no longer subject to administrative provisions of a code of conduct; thus they must be based in statute. In any case, the fact that there is nothing but a voluntary restriction for a minister, and a system for other PTEF that seems from the outset to raise substantial practical challenges, is problematic. Finland could, for example, address this through statutory restrictions applicable across the board that limit certain types of activities, or set up an independent body from whom an individual must gain approval for activities following government service for a certain period of time, or the body could determine that a complete employment ban for a set period is appropriate and provide compensation in that specific case, if necessary. Regarding the latter, the GET was informed, after the on-site visit, of the intention of the authorities to introduce legal changes, in 2018-2019, so that the Advisory Board for Civil Service Ethics would be empowered to give individual advice. The choice of how to address this is not GRECO's, but it is an important preventive measure, particularly as Finland engages in more privatisation efforts, to address these very practical gaps. This may help stem what appears to be more growing public unease about the conduct of its senior officials, particularly with regard to privatisation processes.

82. Therefore, GRECO recommends (i) addressing the conflicts of interest that can arise with former private activities when an individual comes into government service as a top

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<sup>20</sup> The restriction is contractual in nature so will not apply to those currently in office, unless their duties change, but in any case cannot be a condition for staying in office.

executive official from the private sector and when the individual wishes to begin negotiating for future employment that will follow government service, and (ii) establishing standards, procedures, and where necessary legislation, to be followed by persons entrusted with top executive functions with regard to their post government activities.

## Declaration of assets, income, liabilities and interests

### *Declaration/disclosure requirements*

#### Ministers: declarations

83. Ministers are required, without delay after being appointed, to present to the Prime Minister's Office an asset and interest declaration form. A communication of the government containing an account of the personal interests of its ministers is then made to Parliament. A debate on any implications of the information reported and its relationship to the duties of a minister, and, therefore, on the confidence of Parliament in the objectivity of the ministers in the performance of official duties, follows in plenary session, but is not subject to parliamentary decision. This could be either a collective discussion on the ensemble of the cabinet or a debate on an individual minister's situation. Any significant changes occurring to the declarable interests during the minister's term of office must also be reported; the Prime Minister's office presents the declarations of changes to interests in a centralised manner and submits them to Parliament. Both the government communication and the individual minister's declarations are public and accessible online.

84. The GET notes that the minister's declaration contains information of shareholdings and other interests in commercial enterprises; other significant assets of significant value, e.g. property acquired for investment purposes; the amount and reason for debts and other financial liabilities; positions of trust and administrative positions in enterprises and other corporations that the minister is allowed to retain; municipal and other government positions of trust that minister is allowed to retain; other significant interests; and finally those duties that he or she holds immediately before becoming appointed a minister but which s/he is obliged to give up upon appointment.

85. In the GET's view, there is still room for improvement in this matter. Rather than require threshold amounts or an ownership percentage of an asset to trigger reporting, the form uses the term "significant" in describing the type of information to be reported. The declaration form's instructions provide guidance on significant assets, not by the amount or value of the asset, but its purpose—acquired for investment purposes. In the "Other" (blanket) category some information may appear with regard to the spouse's interests or those of other "close" parties but that is up to the filer and his/her understanding of "information which objectively considered, may have significance when assessing his/ her actions as a member of the Government or which s/he simply wishes to report to Parliament." In addition, there is no requirement to disclose gifts received. The purpose of the declaration is to allow Parliament to assess the minister's performance and thus determining whether the individual enjoys the confidence of the House. Finally, ministers

are required to file updates with any significant changes, but no time limit is applicable to such filing<sup>21</sup>.

86. Members of government who are also members of parliament (i.e. currently all members of government), have to, by virtue of their MP status, within two months from when his/her credentials have been examined, provide the Parliament a notification of interests (so-called "disclosure of outside ties") with an account of any outside duties, commercial activities, holding in enterprises and other significant assets which may be of relevance in evaluating his/her performance as a member of parliament. The disclosure of outside ties by a member of parliament and the declaration of interests by a member of government are two separate procedures. Both types of forms are public and accessible online (Prime Minister's website and Parliament's website, respectively).

#### Other PTEF: disclosure

87. A senior government official is required, prior to appointment, to give an account of his/her business activities, of holdings in companies and other property, of duties not related to the office concerned, of part time jobs and of other relations and commitments that may be relevant for the assessment of whether s/he is qualified for performing the tasks required in the relevant office. These individuals are advised to file the disclosure directly with the official preparing the appointment.

88. Not all the contents of that disclosure are of a public nature, but just the data relating to financial and other outside interests in Finland and abroad (i.e. information on practice of trade or profession – company name and field of activity, positions of trust and administrative duties in companies and entities, positions of trust in municipalities and public undertakings, secondary positions requiring specific permission, secondary positions requiring notification, other duties unrelated to office, other outside interests that may be of relevance in assessing the candidate's overall ability to discharge the duties of the office). Information on the financial position of the person is to be held in confidence and not subject to public disclosure.

89. Once the person takes up his/her duties, the hiring ministry sends only the part of the disclosure which is public to the Ministry of Finance. The information is posted on the Ministry of Finance's website. When a government official resigns, the relevant ministry asks the Ministry of Finance to delete the aforementioned data from the public information network. Each ministry is responsible for ensuring that the information related to its administrative sector and posted in a public information network is up to date.

90. The system of disclosure of financial and other outside Interests for other PTEF has a very positive potential for helping prevent conflicts of interest and other violations of law; candidates for these positions are required to file this disclosure prior to appointment, and therefore, someone in the ministry to which this person is being considered for a position does have the opportunity at least to review the information and advise the candidate of steps required to be taken by him/her.

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<sup>21</sup> Parliament has a political role in identifying positions or financial interests it believes should be given up, but technically the ministers are only required to recuse from acting on matters that meet the test.

91. However, this system has a rather unique feature that weighs on the other side of its usefulness in helping prevent conflicts of interest and violations of other integrity restrictions. The public segment of the report begins with a section completed by the ministry involved in the hiring of the official outlining the main duties associated with the office or position and relevant stakeholders. The PTEF then is obligated disclose only those circumstances in the various categories that are of relevance to his or her main official duties listed. Thus there are two levels of potential filters of this information before the information is public: (1) the ministry's description of what constitutes the main duties of the official and who the relevant stakeholders are, followed by (2) the official's personal determination of which of his/her personal circumstances meet that description. Information that falls into this category includes: practice or trade or profession; positions of trust and administrative duties in companies and entities; positions of trust in municipalities and public undertakings; secondary positions requiring specific permission; secondary positions requiring notification; other duties unrelated to the office; other outside interests that may be of relevance in assessing the candidate's overall ability to discharge the duties of the office.

92. The confidential portion of the report is also subject to the same two filters noted above. In this section, the filer is required to report shareholdings and other interests in companies; other significant assets used for investment purposes; amount of debts and other financial liabilities; other financial interests that may be of relevance in assessing the candidates overall ability to discharge the duties of the office; income earned from a secondary position requiring specific permission; external duties and the income received after the appointment to the office or position.

93. Furthermore, and with respect to both systems, i.e. the declaration of ministers and disclosure of other PTEF do not require the reporting of information on the interests or employment of spouses or children unless the filer personally determines that information should be reported by him/her in the "Other" (blanket) category. Yet, the requirement for disqualification is also triggered by the interests of spouses and other close persons. This disconnect, as well as the filters for information to be reported by other PTEF, makes for a lost opportunity to provide full counselling to the individual on the requirements for disqualification.

94. Finally, the disclosure/declaration requirements specifically by law do not extend to minister's special advisors. Because the type of information available to them and the matters that they may be called upon to assist the minister can almost be as broad as the minister they serve, the GET believes that they must be added to all other PTEF required to report on their interests and assets for corruption prevention purposes.

95. In view of the above, GRECO recommends that for all persons entrusted with top executive functions (including special advisors) (i) the content and time of financial disclosure/declaration requirements be made standardised and specific (i.e. that the filer has no role in determining what is relevant to his or her position and filing and update periods are set); and (ii) consideration be given to widening the scope of reporting to include information on gifts above a certain threshold, as well as information on the financial assets, interests, outside employment and liabilities of spouses and dependent family members (it being understood that such information of close relatives does not necessarily need to be made public).

## *Review mechanisms*

96. There are no specific mechanisms in place to review completeness and accuracy of financial declarations/disclosures, a substantial flaw which was already highlighted before and has triggered a specific recommendation (recommendation iii, paragraph 65).

## Accountability and enforcement mechanisms

### *Non-criminal accountability mechanisms*

97. Actions of the executive are subject to parliamentary oversight. Regarding political oversight, and pursuant to the Constitution, the government must enjoy parliament's confidence. The Government submits to Parliament the Government Annual Report with the State annual accounts; the report also includes information on the policies practiced and their impact. Parliament has the right to receive the information it requires concerning the measures taken by the government and subordinate authorities; this is generally done by means of interpellations (generally followed by a vote of confidence) or written questions. The Parliament can also appoint ad hoc committees for the preparation of, or inquiry into, a given matter. The government also assists Parliament in its oversight by submitting reports, statements and announcements by the Prime Minister.

98. The Audit Committee is responsible for parliamentary oversight of government finances after the fact; it takes the initiative in deciding what matters to examine and reports significant findings to Parliament for consideration in plenary session. The National Audit Office, which is an independent authority operating in affiliation with Parliament, audits the management of central government finances and monitors fiscal policy and campaign and party funding.

99. As to legality oversight (to ensure that ministers comply with legislation in performing their duties), Parliament focuses on the activities of members of the government. If parliament believes that a minister has failed to comply with legislation in performing duties, it can decide to bring charges. The Constitutional Law Committee is responsible, *inter alia*, for considering matters related to ministerial responsibility, including alleged malfeasance of a minister. The Constitutional Law Committee may initiate an inquiry on its own motion, or upon request of the following: the Chancellor of Justice, the Parliamentary Ombudsman, at least ten MPs or another parliamentary committee. A decision to bring a charge is made by Parliament, after having obtained an opinion from the Constitutional Law Committee.

100. Furthermore, regarding legality oversight, the Chancellor of Justice and the Parliamentary Ombudsman, are the key "guardians of legality" in Finland. In addition to the duty to oversee the lawfulness of the acts of the Government and the President, both institutions monitor maladministration of public authorities. They receive complaints from the public and can investigate ex-officio. They have similar investigative methods as well as powers at their disposal; expressing a view to authorities/officials, issuing a reprimand to a public official and ordering that a criminal charge be brought. The division of labour between the Chancellor of Justice and the Parliamentary Ombudsman is prescribed in legislation. They do not examine the same matter and do not scrutinise each other's procedure.

101. As for PTEF (other than ministers), they fall under the general administrative sanctioning regime for civil servants. In particular, the respective employing authorities may take “administrative measures” (the term “disciplinary” was replaced by “administrative” in 1994) against a state civil servant who does not perform his/her duties properly. The applicable sanctions are written warning, notice and cancellation of a civil service relationship. All these measures may be appealed to court. Criminal and administrative proceedings may be pending simultaneously.

102. In addition to regular administrative measures, the civil service relationship of state secretaries and special advisors can be cancelled because of loss of trust of their minister. Therefore, in practice, there is seldom a need to take disciplinary measures against a state secretary or a special advisor who does not perform his/her duties properly.

103. There has been one important corruption-related case involving a high-ranking official: a former Prosecutor General was recently fined by the Supreme Court for conflict of interest/nepotism in relation to the procurement of training services from his relative's company. He was then dismissed by Government.

#### *Criminal proceedings and immunities*

104. Procedural immunity is provided under the Constitution for the President and members of government. There are no immunities or other procedural privileges regarding other PTEF (i.e. state secretaries, permanent secretaries of a ministry, permanent state under-secretaries and ministers' special advisers); as mentioned before, they all fall under the same rules and regulations as other civil servants.

105. A decision to bring charges against a minister may be made if he or she has, intentionally or through gross negligence, essentially contravened his or her duties as a minister or otherwise acted clearly unlawfully in office. The decision is taken by Parliament, after an enquiry by the Constitutional Law Committee where the minister in question is given an opportunity to give an explanation and thus notified of the potential of a criminal investigation. When considering a matter of this kind the Committee shall have a quorum when all of its members are present. No preliminary investigations (including using special investigative techniques and searches) can take place before immunity is lifted.

106. If immunity is lifted in the abovementioned cases, then the investigation of the case falls under the remit of the Prosecutor General and is tried before the High Court of Impeachment. The latter is composed of the President of the Supreme Court (who presides), the President of the Supreme Administrative Court, the three most senior ranking presidents of the Court of Appeal and five members elected by the Parliament for a term of four years. The applicable procedural rules are those established in the Act on the High Court of Impeachment, as well as the provisions of the Criminal Code and the Criminal Procedure Code. It is not possible to appeal the decisions of the High Court of Impeachment. There have not been any criminal cases initiated or concluded in the last five years on PTEF and there is no recorded information/statistics.

107. At the start, and as per the description above, the GET notes that ministers cannot be held accountable for any official misconduct, not just violations of criminal laws, other than through a special process dictated by the Constitution. This process provides the minister

with notice of a potential criminal investigation and carries with it a higher level of proof of violating, for example, the provision requiring recusal, than that for any other civil servant. One might normally think that the higher the position, the higher the standards that should be expected, but is not the case under the current national framework.

108. At the time of GRECO's First Evaluation Round (2001), where immunities were reviewed, the GET felt this system implied that bringing charges of corruption against a minister would be an extremely difficult task. Depriving the prosecutor in charge of the case of the power to request the opening of an inquiry could be an obstacle for the proper functioning of the criminal justice system. Besides, a Parliamentary Committee, by definition a political body, could be influenced in its work by political considerations. That observation from 2001, that bringing charges against a minister is difficult, was supported again in the official replies of the Finnish authorities. They indicated that the constitutional test "narrows ministers' liability so that it is more limited than the ordinary liability for offences in office by attaching additional conditions broadening the scope of acceptable risk in the official duties of ministers to the provision. Immunity and lifting procedures always make the start of an investigation harder, especially since they raise the risk of losing evidence and losing track of the criminal assets during this procedural stage." In 2001, GRECO only made an observation about steps Finland should consider, in part, taking into account the low-level of perceived or prosecuted corruption in Finland and the fact that there were no indications that the system described would have prevented any minister from being investigated or charged with corruption offences.

109. On-site, the GET was told of a situation in 2001 where the Constitutional Law Committee determined that a minister had very probably violated the law but that it did not meet the higher standard for going forward to a prosecution. Given the growing concerns that privatisation is opening opportunities for potential abuse of office and will result in less transparency in public services, GRECO recommends ensuring that the procedures for lifting immunity do not hamper or prevent criminal investigations in respect of ministers suspected of having committed corruption related offences.

## V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

### Organisation and accountability of law enforcement/Police authorities

#### *Overview of various law enforcement authorities*

110. Formally, Finland has three law enforcement bodies, which operate within their own area of competence: the Police, the Finnish Border Guard and Customs. The Act on Cooperation between the Police, Customs and the Border Guard (687/2009) provides an operative framework to enhance synergies of action; a concrete practical example of this collaboration includes a daily video conference aimed at exchanging information about new criminal cases and phenomena. Despite this legislative framework, the GET was told that the cooperation between the different forces, and even within the same corps, has gone through peaks and troughs, with information sharing not always being as good and swift as desirable.

111. The Finnish security intelligence service (Supo) is a national police unit operating under the Ministry of the Interior. Supo's core functions are counter-intelligence, counter-terrorism, and security work. The duty of Supo is to prevent such undertakings and crimes that may endanger governmental and social systems or internal and external security of the state.

112. This report focuses on the Police and the Border Guard (the officials of these law enforcement authorities are hereafter referred to as LEO)<sup>22</sup>. Each of these authorities has its own set of rules (as detailed below), which mainly refer to their powers and the ways in which those are to be performed with due respect for citizens' rights. That said, most of the applicable rules and principles governing career life, integrity and deontology related matters, and complaints mechanisms, are those contained in the Civil Servants' Act, which, as already described in the previous section of this report, apply to all public officials across the line. Additionally, military provisions may apply to military posts at the Border Guard.

113. For the purposes of this report, the common features of the Police and the Border Guard are grouped together, but a detailed assessment follows, whenever necessary, to highlight differences of respective arrangements within each authority – whether those differences are achievements or challenges ahead.

- Police: It has a general mandate in crime prevention and investigation; more particularly, its duty is to secure the rule of law, maintain public order and security, prevent, detect and investigate crimes, and submit cases to prosecutors for consideration of charges. The Police is regulated by the Police Act (872/2011), the Act on Police Administration (873/2011) and the Government Decree on the Police (1080/2013).

The Police is headed and coordinated by the National Police Board, which is based in Helsinki. The National Police Commissioner, who is appointed by government, is

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<sup>22</sup> As agreed by GRECO, administrative customs services and tax authorities are excluded from the Fifth Evaluation Round. Supo cannot be held to perform core law enforcement functions and is therefore also excluded from this review.



responsible for managing, developing and overseeing the work of the National Police Board and the administrative sector of the Police. There are 11 local Police Departments and two national units (the National Bureau of Investigation and the Police University College).

- **Border Guard:** It is responsible for border management and to combat cross-border crime including illegal immigration. The Border Guard is led by the Chief of the Border Guard at the Ministry of the Interior. The administrative units subordinate to the chief include the Border Guard Headquarters, Border Guard Districts, Coast Guard Districts, the Border and Coast Guard Academy and the Air Patrol Squadron. The Border Guard is regulated by the Border Guard Act, the Act on the Administration of the Border Guard (577/2005) and the Government Degree on the Border Guard (651/005).

*LEO in numbers*

	Total personnel	Male %	Female %
Police	9 766	70.6	29.4
Border Guard	2 747	86.1	13.9

114. LEO are independent in their operation and cannot be given instructions of a political nature. The Ministry of the Interior keeps steering and monitoring responsibility over them, in the terms and conditions explained later in this report (see paragraphs 160-161).

*Access to information*

115. The information held by LEO fall under the freedom of information provisions, with the exceptions provided by law, i.e. matters where national security, public order or the prevention/investigation of a crime may be endangered if data were disclosed. A personal right of inspection is also guaranteed and only limited in very specific circumstances as enumerated by law (e.g. data in Suspect Data System, Europol Data System, Operational Data System of the Security Police, etc.). When such exception to the personal right of inspection applies, and at the request of the data subject, the Data Protection Ombudsman is entitled to examine the lawfulness of the reserved information held by the relevant enforcement body.

116. Both the Police and the Border Guard publish annual activity reports, including data on operations and finances, which are available online at their respective websites. The Police has attached key value to the role of social media to stay better connected and engaged with citizens. Police interaction with the public through social media has proven to be challenging in terms of the pertinence of some of the statements made by individual LEO, and the challenges have led to corrective action, e.g. updated guidelines on social media behaviour, and have been taken into account during internal values discussions led by the National Police Board (on the principles of fairness and non-discrimination).

117. The GET notes that the use of social media can bring benefits, both as intelligence and investigative tool and in terms of closer engagement of LEO with their communities; however, it can also bear non negligible risks which need to be understood and managed. For example, the inappropriate use of social media can upset organisational reputation (as

the recent aforementioned case showed) or can relate to information leaks. Guidance must be made available for LEO on what constitutes acceptable behaviour when communicating online, the dividing line between professional and personal updates, etc.; this is clearly an area to be covered by the recommended code of ethics/standards of conduct (recommendation viii, paragraph 132).

#### *Public trust in law enforcement authorities*

118. The Police carries out biannual perception based surveys to gauge citizens' trust in its operation. The results over the years point at high levels of public confidence in the institution (in the latest poll, 2016, 96% of the respondents said they trust the Police). This positive picture is corroborated by other surveys carried at international level. In particular, the 2013 Global Corruption Barometer (Transparency International) shows that only 5% of the respondents considered the Police to be corrupt. The 2013 Eurobarometer on Corruption notes that the Police is the most trusted institution in Finland: 80% of the surveyed would turn to the Police to complain about a corruption case (EU average: 57%), and only 3% were of the view that bribery and the abuse of power was widespread in Police (EU average: 36%). No particular studies on public trust in the Border Guard were reported.

#### *Trade unions and professional organisations*

119. In Finland there are three main levels of trade unions: local trade unions, national federations of member local unions, and confederations. Trade unions are key counterparts of the government as the latter develops policy/strategic documents for professional groups; they play a relevant role in labour related matters. To this aim, nationwide collective agreements are concluded between the confederations. The main trade unions with LEO affiliation are as follows: the Finnish Police Federation – SPJL (8 500 police officers), Trade Union for the Public and Welfare Sectors – JHL (300 police officers, mainly guards), Negotiation Association of Educated Professionals in the Public Sector – JUKO (300 police officers, mainly in specialist and chief tasks; 318 border guards), Federation of Salaried Employees – PARDIA (15 police officers), the Border Guard Union Rajaturvallisuusunioni – RTU (1 783 border and coast guards), Päälystöliitto – PL (233 border guards, mainly warrant officers), Suomen konepäällystöliitto – SKL (60 border guards, mainly specialists – technicians), Maanpuolustuksen henkilökuntaliitto – MPHL (50 border guards, mainly civilian workers).

#### Anticorruption and integrity policy

##### *Policy, planning and institutionalised mechanisms for implementation*

120. There is no dedicated anticorruption policy for LEO. That said, their staff fall under the applicable ethical rules developed for civil servants, as will be detailed below. In addition, they have their own strategic documents on their respective core-mandate and vision (e.g. 2017/2020 Strategic Police Plan – Security and Safety through All Times). Such policy documents are service/user-oriented in terms of the required efficiency, openness and professionalism of their operation. The national anticorruption strategy (finalised but not yet politically endorsed) also covers LEO.

## *Code of ethics*

121. According to the authorities, the provisions of the State Civil Servants' Act serve as a general legal code of conduct for LEO. The Ministry of Finance holds overall responsibility for the development of guidance in this respect, and remains the authority of reference when in need of advice on integrity matters. The Police reports some additional tools in this field, including a "Declaration on Good Policing" consisting of 15 different ethical rules to be applied in Police work (e.g. honesty, fairness and efficiency), tailor-made guidance on gifts, donations and travel (issued by the National Police Board in 2015-2016), as well as an ethical oath upon entering service which has been in place since 2000. The [Values of the Border Guard](#), the mission statement of the organisation, are based on three cornerstone principles: competence, reliability and cooperation. Both the Act on Police Administration and the Act on Administration of the Border Guard contain a special provision on behaviour on and off duty.

### *Risk management measures for corruption prone areas*

122. The authorities indicate that there are structural tools to prevent corruption and malpractice, including through eventual rotation of staff in sensitive posts (although this is not a systematic routine for Finnish LEO), IT log checks, the application of the four-eyes' principle, community policing, or the responsibility of line managers and supervisors to ensure good behaviour of their subordinates. Risk assessments are carried out and the steps taken to tackle the identified risks are monitored thereafter through internal and external control procedures. The GET considers that risk management in the Police can be stepped up; specific comments on how improvements could be built into existing structures follow below, including a targeted recommendation on stricter oversight (recommendation xii, paragraph 163).

### *Handling undercover operations and contacts with informants and witnesses*

123. There are rules in place concerning the use of coercive measures by the Police<sup>23</sup>, but a scheme of organised crime and corruption in the Helsinki Police Department (hereinafter, HPD see footnote 24) revealed the need to further develop and improve the system of checks and control; work is on-going.

124. LEO have the right to withhold information about the identity of sources of confidential information, as well as secret tactical and technical methods. Even so, a court can order the disclosure of such information, if its withholding could impinge upon the interested party's right to a fair trial and the charges brought by the prosecutor relate to a criminal offence punished with more than six years' imprisonment.

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<sup>23</sup> The Coercive Measures Act vests the Police with the powers to apprehend, arrest and remand suspects. In addition to coercive measures that affect personal freedom, other coercive measures consist of seizure, cordoning off an investigation site, restraint on alienation, search of the premises, search of a person, interception and monitoring of telecommunications, and technical surveillance.

## *Advice, training and awareness*

125. All basic courses for LEO include a particular chapter on ethics, and then later, while in service, there are opportunities for following training modules on professional deontology. The Police has a dedicated body in charge of training its officials, i.e. the Police University College (Tampere), which is also responsible for research related activities. As for border guards, courses on ethics are provided in induction training and then ethics training refresher courses are offered every ten years.

126. The GET notes that the Finnish Police enjoys high consideration among its citizens, as well as internationally. For that reason, a recent corruption case within the HPD caught most by surprise, and led to a necessary, and urgent, re-assessment of the control systems and superiors' tasks, and more generally, the corruption prevention mechanisms for the Police<sup>24</sup>. A systematic scan of risk areas took place and an action plan was adopted thereafter, which is in the process of implementation. More particularly, the police reported on an array of measures taken including instituting an organisational reform of the Crime Investigation Division, requiring adherence to appropriate purchasing processes and strengthening the Crime Investigation Division's legality control, intensifying cooperation between the prosecutors and the Anti-Drug Investigation Units in the Helsinki Metropolitan Area, reforming the CHIS process (covert human intelligence sources) and individualising managers' duties and responsibilities.

127. Although understanding that the aforementioned case has constituted deviant behaviour in an organisation with sound records of integrity and with highly committed, honest personnel, given the significance of the breach of trust involved, the GET believes that substantial work remains ahead to set in place meaningful tools which would prevent misconduct and graft from occurring, well before more severe reputational damage has been caused. The corruption scheme in HPD showed what can go wrong when a primary reliance on trust fails and proper control and oversight are neglected. Consequently, the HPD case should not solely trigger a comprehensive reform in that particular station; the case must also provide valid lessons for other geographical areas and law enforcement authorities.

128. No systemic or major corruption affair has tainted the reputation of the Border Guard, but it is a fact that illegal immigration renders border areas particularly vulnerable to corruption and other illegal practices. A Border Guard Strategy for the decade 2017-2027 is in place and focuses on three main fronts: border security, safety at sea, and territorial integrity and defence readiness. The Border Guard stressed that it approaches corruption prevention from the angle of transparency and discipline, greatly relying on typically military – chain of command structures and techniques. The GET understands the proven value of such a model, but encourages the institution to seize the opportunity to also engage in an

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<sup>24</sup> In 2016, the former head of Helsinki's anti-drug Police unit, one of the most prominent Police officers in Finland, was found guilty for a raft of drug and corruption related offences (around 30 criminal charges for aggravated narcotic offences, bribery, abuse of office, witness intimidation, obstruction of justice, fraud, irregularities in public procurement, information gone missing, informant contacts not being registered, etc.) and sentenced to 13 years of imprisonment over the charges. An appeal of the verdict was on-going at the time of this review. A third of the officers of the Helsinki narcotics squad have been transferred either voluntarily or involuntarily.

inclusive dialogue within its ranks to further reflect on its integrity policy, including lessons learned, emerging risks and challenges, and the way forward.

129. The GET considers that the time is right for LEO to carry out a “health check” of their respective organisations and mainstream corruption prevention tools in their respective organisational policies/strategies. For LEO to be supported when confronted with corruption and unethical behaviour their organisation should have an “ethics infrastructure” in place; in the GET’s view, much more can be done in Finland in this respect. The result of such an exercise – which would necessarily entail an inclusive consultation process in the respective forces – should be the design of a targeted anticorruption strategy, which will complement the development of the broader anticorruption strategy currently led by the Ministry of Justice, but which can be adopted independently/separately and as a matter of priority, and thereby result in targeted actions, including due fulfilment of the recommendations made in this report. GRECO recommends that the Police and the Border Guard develop a dedicated anticorruption strategy/policy which is made known to the public.

130. The GET also refers to the value of a set of clear ethical standards/code of professional conduct to build up a strong organisational ethos and to reinstate a firm commitment of LEO towards integrity. The GET understands that the standards of conduct that apply across the board for all public sector officials are of use for LEO, but the GET believes the public expects even higher standards from LEO given their powers and the certain degree of discretion they have in how to use these powers. Neither the police nor the border guard have codes of conduct of their own, and, in the GET’s view, training on ethics is not as systematic/regular as desirable. For this reason, the GET is of the opinion that the development of tailor-made codes for LEO could provide a valuable tool in guiding officers in ethical questions, but also in informing the general public about the existing standards. The values of the respective organisations may form a basis for such a document, which will also have to take sufficient and coherent account of certain corruption risks for LEO, notably by providing written guidance – either in the document itself or in a complementary guide – on ethical dilemmas and offering solutions to resolving such dilemmas. The codes should be prepared in close cooperation between management, employees, unions and other interested stakeholders. Moreover, once adopted, they need to be properly introduced and delivered to each and every employee, through practical discussions, workshops and study cases. It will be crucial to ensure the sustainability of the support offered on ethical matters; the provision of an institutionalised source of confidential counselling and advice (e.g. through ethics advisers, committees, debriefings, etc.) would undoubtedly constitute a further asset.

131. Further, LEO generally rely on supervision/hierarchical lines (the Border Guard having a typical military chain of command structure) and for that reason it is essential that supervisors lead by example. Chief officers play a key role in the entire career of their subordinates, from appointment to dismissal, but also with regard to ethical advice, promotion, authorisation of secondary activities, bonuses, etc. It is imperative that superiors are able to fully understand the areas of vulnerability and set the right benchmark in reacting to ethical challenges; visible leadership which consistently displays appropriate behaviour is key. Indeed, leading by example can decisively influence the desired behaviour of subordinates, their professionalism and the organisational culture. It must, therefore, be assured that specific on-going training is developed for managers, to better equip them to provide a lead on ethics, the prevention of conflicts of interest and other integrity and anti-

corruption matters within their teams. Such training will serve both to raise awareness and reinforce ethical practice.

132. GRECO recommends (i) adopting and publishing a code of conduct for the Police and for the Border Guard, respectively; (ii) complementing them by practical measures for their implementation, notably, through confidential counselling and mandatory, dedicated induction and in-service training. Particular attention should be paid to ethical leadership training.

133. Finally, the corruption case within the HPD has clearly shown the pervasive effects that corrupt management has in the entire system. Consequently, it is crucial that, on the one hand supervisors/managers are subject to the highest level of personal and professional standards (and are fully aware of those) and lead by example, but also, on the other hand, that procedures are in place for when those persons fail. Concrete recommendations follow in this report as to how those procedures need to either be built in the current systems or stepped up.

### Recruitment, career and conditions of service

#### *Recruitment requirements and appointment procedure*

134. LEO are civil servants and, therefore, subject to the general principles on public office laid out in the Constitution, as well as the requirements of the State Civil Servants' Act. Accordingly, the required qualifications are based on skill, competence and proven civil merit. The provisions of the Security Clearance Act, as amended, also apply insofar integrity qualities of candidates are concerned; further, the respective (Police/Border Guard) academies conduct courses on ethics and professional standards. The provisions of the Non-Discrimination Act (Section 23) and the Act on Equality between Women and Men (Sections 11 and 12) also apply in order to guarantee the principle of equal opportunities. There are mechanisms in place to claim compensation in the event of a breach to this principle in the recruitment process. In addition to these, if an appointment procedure violates the law or is in other ways reprehensible, an administrative complaint can be filed before either the Chancellor of Justice or the Parliamentary Ombudsman. The Police prepared, in 2017, a catalogue of new initiatives for human resources development: human resources strategy, strategy for developing Police competence, student recruitment strategy, equality and non-discrimination plan and updated values.

135. Security clearance is systematically carried-out; the requirements of the Security Clearance Act apply. The latter was recently amended to provide, *inter alia*, for re-vetting (vetting at regular intervals) processes. There are different levels in the type of check which is carried out according to the sensitivity of the post (e.g. heightened processes for officers handling higher levels of security information). The checks carried out take into account the information gathered through different registers, including among others, police registers, Finnish Security Intelligence Service data, criminal records, business restrictions, etc. There is no separate, differentiated, security check for officials working in internal control units.

136. If the employing authority deems it necessary, it can also require that the security check is carried out in relation to the close relatives/associates of the applicant. Security clearance of those additional persons can only be made if the subject of the enquiry has

given his/her written consent in advance. The information contained in the check results cannot be used for purposes other than those stated in the application.

*Performance evaluation and promotion to a higher rank, transfers and termination of service*

137. Annual performance appraisals are an essential tool for public service progression in Finland, specifically, because of the weight they bear in salary rises. Salaries are calculated mainly around job evaluation systems, measuring the complexity of the tasks assigned, and individual performance appraisal (as a general principle applied across public administration, the individual performance component may not exceed 50% of the pay assigned to each post). Performance appraisals are carried out by the superior in line. Decisions on salary adjustments are appealable, firstly through internal collective negotiation (employer/employees' representatives) and ultimately before court.

138. As for rules on transfer and dismissal, the State Civil Servants' Act applies. In particular, transfers are decided by the contracting authority and are subject to the consent of the office holder (Section 5, State Civil Servants' Act). LEO can be dismissed if there are compelling reasons to do so, for example conviction for an offence, where a sentence of imprisonment has been issued, gross violation or negligence of official obligations (Sections 25 and 33, State Civil Servants' Act). An individual may appeal his/her dismissal to the Administrative Court (Section 53, State Civil Servants' Act).

139. The GET acknowledges that a hierarchical chain of command principle prevails for LEO, and for that very reason, believes it is key that career related processes are constructed with integrity issues in mind, notably, by ensuring that checks and controls exist to prevent any one person being in a position to influence unduly the process. The existence of appeal mechanisms is also crucial as this takes place. It became apparent from the interviews held on-site that the relevant appointment, promotion and transfer processes were highly dependent on the supervisor in line and that internal appeal/conciliation channels within the respective law enforcement authorities were lacking.

140. While it is always possible to resort to an external appeal (before court, the Chancellor of Justice or the Parliamentary Ombudsman), it may not be the preferred course of action for LEO given the potential negative effect that such a move could have in career life. The Ombudsman further indicated that 30 complaints were received from Border Guard and Defence Force officers regarding appointments/transfers. The Border Guard later clarified that only two of those complaints referred to border guards and were made in connection with appointments or transfers in the period 2012-2017. The GET was told that a shortcoming of the current system is that most complaints would fall outside of the possible remedial actions that could be taken by the Ombudsman because a proper assessment would require more than a written procedure, and also because there is a fairly wide margin of appreciation in the decision reached by the relevant authority. GRECO recommends that, in relation to career-related processes in the Police and the Border Guard, (i) adequate checks and controls are in place to prevent any one person from influencing unduly the process; and (ii) internal appeal/conciliation mechanisms are built into the system.

141. Rotation is not a policy *per se* for LEO. That said, under the State Civil Servants' Act, posts at a certain level are temporary (five years). For example, in the Police, since 2014, the National Police Commissioner and the heads of departments and national units are

appointed for a fixed term. Additionally, the Police reports that it is starting to resort more often to this practice for other positions, notably with a view to better develop personnel capacity. The Border Guard also resorts to regular job rotation in sensitive positions. It is the GET's view that, in addition to the top management/leading by example approach which inherent value has been underscored earlier in this report, staff rotation can also prove key to creating less fertile ground for corruption by preventing insidious long-term relationships forming and reducing the temptation to engage in unethical conduct. The GET encourages the authorities to keep exploring the application of the principle of rotation as a corruption prevention tool, particularly in those positions that are more sensitive to corruption, because of the opportunities they provide for the responsible officer to make illegal gain or benefit out of his/her duty.

### *Salaries and benefits*

142. Average gross annual salaries are in the range of 40 000-50 000 € (i.e. 3 000-4 000 € gross/month). Additional benefits may apply, e.g. meal and physical activity allowances, etc.

143. It is to be noted that, owing to the current economic crisis, there have been (and will continue to be) significant reductions across the public service. The Police foresees important cuts affecting a sector with already limited resources, as compared to other Nordic countries with a similar societal structure and security situation.

### Conflicts of interest

144. As explained before, the applicable rules on disqualification are embedded in the working routines of all public officials, including LEO (see paragraph 60 on disqualification grounds). Additionally, it is recognised that because of the particular nature of law enforcement bodies and the significance that their integrity and impartiality bears in public confidence, the officials working under these bodies must abide to even stricter rules of conduct.

### Prohibition or restriction of certain activities

#### *Incompatibilities, outside activities and financial interests, post-employment restrictions*

145. According to the State Civil Servants' Act (Section 18), a civil servant may not hold an ancillary job without permission and s/he is obliged to notify the authority concerned. A permission, which can always be rescinded, is based on a risk assessment of the impact of the ancillary job on the impartiality and proper performance of the civil servant. Some additional/specific restrictions apply for police officers. In particular, pursuant to Government Bill 266/2004, police officers are expected to refrain from working in private security jobs or to hold management rights or leading positions in those. Likewise, they cannot act as a counsel or an agent of a suspect (unless the suspect is a close relative, partner or spouse, and in so long as this does not create a conflict of interest with the agent's duties), nor act as lay judges in district courts.

146. LEO must inform their line superior of any secondary occupation, as well as any temporary duties, for an authorisation to be granted. Secondary occupations include



positions and employment outside of the respective agency, other employment relationships, as well as private agency duties. As a rule, the notions of occupation, trade and business cover all kinds of economic activity in which a civil servant actively participates. A shareholder's active participation in the operations of a business also constitutes a secondary occupation. When assessing the acceptability of a secondary occupation, it must be ensured that it does not render the officer in question unable to attend to his/her duties due to a conflict of interest or because performing such a task jeopardises trust in his/her impartiality.

147. A written administrative decision is issued either granting or denying permission; the decision must be accompanied with detailed instructions on appeal channels. Permissions can be granted for a fixed period of time (the maximum period of authorisation is five years) or subject to other restrictions. Decisions are subject to appeal before administrative court.

148. Officials have a duty to report any changes in the nature, scope or duration of their secondary occupations to their employer out of their own initiative. Decisions are, otherwise, reviewed on an annual basis by the line superior, and must be renewed in any case when changing post. Exercising a secondary occupation without permission or without filing a notice constitute a violation of official duties, punishable with either administrative (petty offences) or criminal sanctions (Section 40, Criminal Code).

149. Records on authorisations of secondary employment are kept in a centralised electronic register (so-called ACTA), and subject to public consultation upon individual request. Internal audits may target this issue specifically.

Secondary occupations in the Police (2016)<sup>25</sup>

There were a total of 637 permissions for secondary occupations in effect, and a total of 112 notices of secondary occupations had been submitted. The most common secondary occupations (27%) involved consultancy with titles such as teacher, trainer, legal advisor, social services consultant and various kinds of providers of technical/technological services. The second biggest group of secondary occupations (22% of all secondary occupations) related to service provision and sales work (with titles such as shop assistant, service and welfare worker, model, product representative, fire fighter or volunteer fire fighter, doorman, emergency response centre operator and geriatric nurse). The third biggest group of secondary occupations (17%) related to different kinds of unclassified work, such as being a musician or an athlete or other sports-related activities.

150. LEO are subject to the post-employment restrictions which apply to any other civil servant (see paragraphs 75-76 for details); no additional rules have been issued in this area which would be specific to LEO. As explained before, legislation in this domain is quite recent and its articulation in practice needs to be further developed since it is for the employing authority to consider and decide on whether the duties in question require the drafting of a waiting period agreement, i.e. a period of time during which the right to move to the private sector is limited in order to avoid conflicts of interest.

151. The GET considers that a clear area to further develop regarding the integrity framework of LEO concerns the management of conflicts of interest. With particular

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<sup>25</sup> The job titles provided correspond to the available categories/nomenclature from Statistics Finland.

reference to the Police, there is margin for improvement regarding the standardisation of authorisation procedures and its effective monitoring. At present, there is no centralised system for authorisations, the latter being granted by immediate superiors. In 2016, the internal audit unit of the National Police Board audited secondary occupations; it recommended the institution of a streamlined system for authorising additional employment, including by providing for greater consistency in the decisions made (whether approval or refusal). In the GET's view, the fact that the process for validation of ancillary activities is left to the discretion of the line manager, can raise issues of decisional coherence in the organisation. Further, the GET points at the risks of inconsistencies across units running the possibility that what is acceptable for one superior may not be for another and that not all chief officers are aware of the decisions (or the underlying logic/reasons for individual authorisation/refusal decisions) taken by their peers in other parts of the house. It is also important that systematic follow-up on the authorisations granted be carried out to ensure that the circumstances of approved applications are still applicable and that refusals have been heeded. GRECO recommends developing a streamlined system for authorisation of secondary employment in the Police, which is coupled with effective follow-up.

152. After the on-site visit (in January 2018), the Border Guard introduced a centralised authorisation system for secondary activities which is now performed by the Personnel Division. Regarding the criteria to be applied when deciding on authorisations of secondary activities, the authorities indicated that the legal praxis advises decisional coherence in these matters; however, the GET found little guidance for the Police and the Border Guard providing for harmonised criteria in this respect. Further, it remains to be seen how post-employment cooling off periods will be interpreted and articulated for LEO; since the applicable rule which applies to all public officials is quite new and delegates implementation responsibility to employing authorities. GRECO recommends further developing guidance in the Police and the Border Guard, respectively, regarding standards and procedures to be followed by their officials when taking up a business interest/secondary employment and when negotiating for future employment once they leave the organisation.

### *Gifts*

153. The general guidance of the Ministry of Finance regarding gifts and other benefits applies (see paragraph 69). Additional, complimentary guidance, has been issued by the Police and the Border Guard for this purpose, including in relation to the acceptance of individual donations and bequests to the relevant bodies (and their registration in the case management system), the acceptance of other type of in-service advantages, as for example, airlines' mileage programmes. Rules are strict in letter and, reportedly, in practice, including with criminal suits filed against individual officers for abuses. The GET highlights the value that gift registers could potentially play in identifying patterns of misconduct and points thereby to recommendation xii, paragraph 163, developed later in this report.

### *Misuse of public resources*

154. The misuse of public resources constitutes a criminal offence of embezzlement (Chapter 28 of the Criminal Code, Sections 4-6) or misuse of position of trust (Chapter 36 of Criminal Code, Section 5). It falls also under the different offences categorised as breach of duty (Chapter 40 of Criminal Code). Additional guidance has been issued by, for example, the

Border Guard in respect of service moneys used for representation purposes and the need to account for such expenses (nature of the act, participants, invoice). The Police has developed internal rules for controlling and reporting financial mismanagement; the use of an official position or the employer's equipment, machinery and other services for the purpose of secondary occupations is prohibited.

#### *Misuse of confidential information*

155. The misuse of confidential information constitutes a criminal offence under Chapter 38 of the Criminal Code – namely, “secrecy offence” (Section 1) and “secrecy violation” (Section 2), as well as Chapter 40 of the Criminal Code – notably, “breach and negligent breach of official secrecy” (Section 5). The GET observes that an evident corruption threat for any law enforcement body relates to the inappropriate disclosure of information. In the HPD, this risk has turned to be an actual fact which is in the process of being tackled. The GET underscores that monitoring the security of information on police computers is paramount in securing corruption related investigations and deterring unauthorised access to data. Hence, it calls on the authorities to specifically look into this matter as the Police further refine its risk management and internal oversight tools (recommendation xii, paragraph 163).

#### Declaration of assets, income, liabilities and interests

##### *Disclosure requirements*

156. Disclosure requirements are only applicable to top management positions in LEO, i.e. the National Police Commissioner and the Chief of the Border Guard. The disclosure regime described earlier in this report applies (see paragraphs 87-92). The Police is contemplating further developments in that regard, notably, by also requiring financial disclosure to heads of departments and national units.

##### *Review mechanisms*

157. There are no specific mechanisms in place to review completeness and accuracy of asset and interests declarations.

158. The GET has already reflected on the shortcomings of the financial disclosure system in that vein (recommendation iii, paragraph 65, and recommendation v, paragraph 95). The GET is aware that it is not uncommon that financial reporting obligations for LEO are restricted to senior posts, which are more exposed to corruption than their subordinates (other than petty bribery). Even so, there can well be other corruption prone positions where the use of financial reporting can be of use for preventive purposes, for example, for officials dealing with public procurement decisions<sup>26</sup>. Moreover, if ever developed in the future for all echelons of the respective organisations, financial disclosure should not be merely seen as an obligation for police officers, but also as an opportunity for the system to help prevent situations that could ultimately lead to corruption. For example, situations of indebtedness, which can benefit from welfare support, if properly identified.

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<sup>26</sup> It is recalled that the HPD case revealed obvious shortcomings regarding the management of public procurement processes within the police as the convicted a policeman owned a part of a small technology company which supplied HPD with tracking devices.

## Internal oversight mechanisms

159. There are mainly two types of internal control: control of legality and internal/external auditing. The independence of these types of control is achieved through reporting lines (to top management bodies) and organisational autonomy (not attached to, and distinct from, operational activities).

160. Regarding the control of legality, it aims at ensuring that all exercise of public powers is based on the law; it comprises the following measures: the handling of administrative complaints and citizens' letters submitted to the authority; investigations launched on the authority's own initiative; monitoring of the processing of personal data; inspections; reporting on matters related to the oversight of legality. The Ministry of the Interior draws up an annual report on the oversight of legality.

161. As for internal auditing, it aims at a systematic assessment of the effectiveness of risk management, control and internal governance processes. It follows the principles of the respective internal audit charter developed by the relevant body. The internal audit function does not have any operational power, nor a genuine decision-making power, although the recommendations emanating from the control performed are in practice followed. Internal auditing processes are supplemented by external audits developed by the Ministry of the Interior, and private external auditors hired for this purpose at regular intervals (i.e. every five years).

162. In the aftermath of a serious corruption scheme with a renowned squad of the HPD, much concern was expressed on-site as to the efficiency and effectiveness of oversight structures in the Police. Details of the various irregularities that occurred in that particular case have been provided along this report (e.g. bribery, abuse of office, conflicts of interest, mismanagement of data, witness intimidation, etc.). They have all illustrated how badly things could go when the trust which is placed on individual persons fails, with the detrimental consequences for the reputation of the entire organisation that come thereafter. It then takes substantially more time and effort for all the honest individuals of the damaged organisation to rebuild trust after it is broken. The HPD is currently working in this direction, but it remains crucial that changes are not only restricted to that police station, or the particular division in that station where corruption occurred, but rather, that lessons are learnt from this episode and improvements are made to control procedures of the entire organisation.

163. The GET considers that greater effort must be made to improve internal oversight in the Police and risk management tools, including through further centralisation of decisions within the organisation (e.g. outside activities authorisations – a recommendation has already been made in this respect, see paragraph 151), as well as proactive and retrospective checking of various registers (gifts, applications for approval of business interests and second jobs, expenses claims, extra hours payments, procurement of goods and services, etc.). Additionally, there needs to be a more robust scrutiny of managers registers given the more serious magnitude of the risks that can occur at that level, but also because of the hierarchical nature of law enforcement organisations, their decision-making patterns and the associated challenges for other officers to blow-the-whistle in respect of misconduct of their superiors. Hence the importance of securing systems to monitor and check that all ranks are complying with the rules. Further, it is paramount that registers are

up-to-date. It is also good practice to cross-check such registers against counter-corruption intelligence (including, for example, information on corruption-related cases involving police officers – see also comments made in paragraph 183 in this regard) and complaints and misconduct data. GRECO recommends (i) enhancing risk management within the Police by further developing an information collection plan for corruption prevention purposes; and (ii) providing for stricter internal oversight, including through regular cross-checks and audits of registers.

### Reporting obligations and whistleblower protection

164. As already recognised in GRECO's Second Evaluation Round Report on Finland, there is no specific provision in the State Civil Servants' Act on the reporting of misconduct/corruption. Failure to report a serious offence is punishable under criminal law (Chapter 15, Section 10, Criminal Code), but the list of offences this provision refers to does not include corruption. Pursuant to a recommendation made by GRECO, the Ministry of Finance published a handbook in 2005, *Values in the daily job – Civil servants' ethics*, to promote ethical standards in public life, which stresses that "*any suspected corruption within operational units must be reported to the authority*". Additionally, the Act on the National Audit Office (Section 16) establishes that a State authority, agency, business enterprise or State fund, must immediately report any abuse of funds or property, which it manages or for which it is responsible to the National Audit Office, regardless of confidentiality regulations. Reporting can take place internally (reporting is to be made to a superior or to the legal services of the respective authority), or externally, i.e. to the Ministry of the Interior (legality control unit or the minister), the Ombudsman or the Chancellor of Justice.

165. An inter-agency, cross sector working group was set up, under the auspices of the Ministry of Justice, to assess whether further measures were necessary in this domain. The conclusion of this reflection process was that no additional legislative requirement was needed to regulate whistleblower protection (it was acknowledged that, although somewhat fragmented and difficult to grasp, the current legislative framework is adequate in terms of whistleblower protection), and rather focused on the establishment of anonymous reporting channels. It is expected that a national-level working group be established in spring 2018 to look further into this matter.

166. The Police is currently developing a so-called "ethical channel" which would enable anonymous reporting within the organisation; this channel is now being piloted in two units of the force. The Border Guard has reported some practical experience in this domain: there have been two instances of whistle-blowing for misconduct in service, triggering further action of the legal division of the Border Guard headquarters. Both cases turned out to be minor and the officials in question were finally only given administrative supervisory guidance.

167. At the start, the GET points to the fact that several international observers (GRECO, OECD, UNODC)<sup>27</sup>, as well as the national chapter of Transparency International<sup>28</sup>, have criticised the lack of appropriate whistleblowing protection in Finland, with isolated provisions being scattered in different regulatory instruments rather than providing with an

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<sup>27</sup> [GRECO's Second Evaluation Round Report](#) on Finland (2004). [First Cycle UNCAC Country Review Report on Finland](#) – Executive Summary, United Nations Office on Drugs and Crime (2011). [Report of the OECD Working Group on Bribery – Phase 4 on Finland](#) (2017)

<sup>28</sup> [National Integrity Assessment on Finland](#), Transparency International (2012)

overarching protection system for whistleblowers. Considerable work lies ahead and the Ombudsman has repeatedly signalled the urgency of properly addressing this matter. The GET urges the authorities to introduce adequate whistleblower protection legislation as one key action of the anticorruption strategy in the pipeline.

168. Whistleblower protection is decidedly important for LEO because of the “code of silence” (false solidarity or blue code) that could informally rule in hierarchical organisations. Once again, leaders/managers have the most important role here to both lead by example, but also to discourage unethical conduct within their team and encourage a “safe” reporting environment. When a code of silence is present in a given organisation, the opportunities to denounce misconduct and corruption, even if available on paper, seem derisory for a whistleblower. GRECO recommends (i) establishing an obligation for police officers and border guards to report corruption; and (ii) strengthening the protection of whistleblowers in that respect. GRECO recognises that particularly with regard to the second part of the recommendation (ii) above, the introduction of a standard and effective framework for a whistleblower protection system for all of the civil service would address this concern.

169. It is for that reason that special care must be paid for LEO in structuring both internal and external reporting channels that afford due protection for those who report their suspicions of corruption in good faith. It is also crucial to ensure that LEO know that those frameworks exist, they know how to use them, are encouraged to resort to them and trust them. From this perspective, the GET was told that the duty to report corruption suspicions is somehow clearer in LEO’s minds given their overall criminal prosecution mandate, but other than this allegedly general understanding of the reporting duty, and the issuance of internal orders on the latter by some of the agencies under review (i.e. Border Guard), there is very little guidance on how this duty is to be articulated in practice. GRECO recommends providing dedicated guidance and training on whistleblower protection for all levels of hierarchy and chains of command in the Police and the Border Guard.

#### Remedy procedures for the general public

##### *Administrative internal complaint procedure*

170. All individuals (whether Finnish citizens or not) can lodge an administrative complaint before the relevant law enforcement body if they feel that an officer has acted unlawfully or failed to comply with his/her obligations. The ensuing course of action is governed by the APA (Chapter 8 a). Administrative complaints must be submitted in written; an oral complaint is acceptable only in exceptional circumstances (e.g. for health reasons). Anonymous complaints are not investigated without special grounds. Examination of a complaint is free of charge. Complaints can be submitted by outsiders who are not involved in the matter that the complaint addresses. However, when the matter is handled in such cases, confidential information can only be disclosed to those involved.

171. Administrative complaints about matters older than two years will not be investigated without a special reason. The expiration period runs from the official’s allegedly unlawful action. However, the time when the complainant became aware of the decision or measure may also bear significance. The expiration period is not unconditional. As a principle, matters older than five years will not be investigated.

172. Complaints are dealt with by the superior to the official concerned. Each complaint is investigated. If the authority processing the complaint finds that there is reason to suspect unlawful or erroneous conduct, the officer in question is given the opportunity to submit his/her views in the form of a report. The complaint will receive a written reply, which will be sent to the submitter of the complaint and to the person the complaint concerned.

173. If it becomes evident that the officer whose actions prompted the complaint has actually acted erroneously, the authority processing the complaint may (a) call the attention of the subject of the complaint to the requirements of good administration or inform them of their opinion of the lawful procedure, or, depending on the severity of the error or neglect, (b) issue a written caution to the authority or the official in question.

174. A decision issued on a complaint cannot change or repeal the administrative action or decision that prompted the complaint. Furthermore, the supervisory authority cannot immediately correct errors it has detected in the work of its employee(s), and in most cases it cannot require that the recipient of the administrative complaint act in a certain way. Decisions on complaints are not subject to appeal. Instead, a complainant may turn to the Ombudsman (see paragraph 176 below for details).

175. If the administrative complaint procedure provides reason to suspect the commission of a criminal offence, the authority handling the complaint must transfer the case to a competent authority that can assess whether the matter should be subjected to a pre-trial investigation (see further below for details).

#### *External complaints' mechanisms*

176. The mechanisms for external complaints in Finland are well established. In particular, the Ombudsman and the Chancellor of Justice have control responsibilities over all entities of public administration, including law enforcement agencies (the Chancellor of Justice does not deal with Border Guard related complaints). They can act upon individual requests or on their own motion (e.g. triggered by a media report). Matters and decisions concerning Police work are one of the biggest categories of cases in the Office of the Parliamentary Ombudsman and the Chancellor of Justice. The decisions of these bodies are not only of importance for the individual claimant (and they may require compensation for damage of the latter), but they are, more generally, key to interpret matters of legality regarding law enforcement work. The Data Protection Ombudsman, the Non-Discrimination Ombudsman, and the Ombudsman for Equality are also entrusted with safeguarding citizens' rights in their respective areas of responsibility.

#### Enforcement and sanctions

##### *Disciplinary procedure*

177. Under the State Civil Servant's Act, an employing authority may take administrative measures against those officers who do not perform their duties properly; such measures consist, *inter alia*, of warning, suspension and dismissal. All these measures may be appealed to court. Criminal and disciplinary proceedings can run in parallel. Certain positions of the Border Guard are subject to military rules, which infringement, consequently, leads to military discipline.

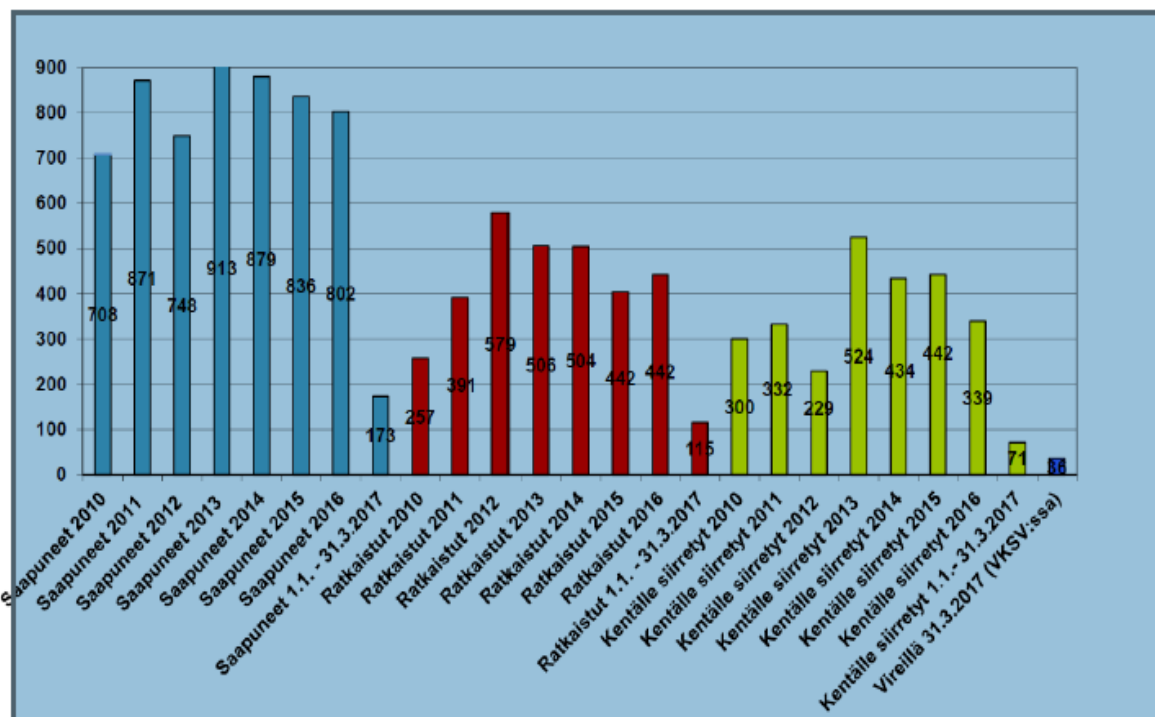
## Criminal procedure

178. LEO do not enjoy immunity. If someone suspects that a law enforcement official has committed an offence, s/he can report the offence to the Police. The reported offence is immediately forwarded to the Police unit in charge of investigation and then onwards to the Office of the Prosecutor General for a potential pre-trial investigation and for the appointment of a lead investigator.

179. If a Police officer is suspected of having committed an offence, only the prosecutor has the authority to decide whether there are grounds for suspecting an offence and whether a pre-trial investigation should be conducted, unless the matter is such that it should be processed in penal fee or penal order proceedings. There are detailed guidelines on the required coordination of prosecutorial and investigative action when criminal offences are committed by a Police officer (on and off duty), the main aim of which is to ensure an objective and efficient investigation of the facts. The Office of the Prosecutor General has a devoted unit dealing with this type of cases; there are also specific channels at Police level handling information on Police misconduct (at central and local level).

## Statistics

Police (2010-2016) – criminal investigations involving police officers (not disaggregated per type of offence)



*Note:* Saapuneet (cases arrived), ratkaistut (cases concluded), kentälle siirretyt (cases transferred to investigation), vireillä (cases pending at the Prosecutor General's Office).

180. In 2016, the National Police Board received 479 administrative complaints or other critical letters concerning the police. They were handled by the National Police Board or referred to the police unit concerned. The total number of complaints submitted to the National Police Board and police units in 2016 was 550. Most of the complaints concerned criminal investigation (mainly dealing with dissatisfaction with the duration of the



investigation, or the fact that no investigation had been started at all or that the investigation had been terminated without submitting the case to a prosecutor for consideration of charges).

181. According to annual data provided by police departments, a total of 276 matters under civil service law became pending in police units in 2016. The procedures under civil service law mainly concerned matters related to offences allegedly committed by police officers, such as violations of official duties, data protection offences and driving while intoxicated. In 2016, a warning was issued in a total of 35 cases considered by police departments and national police units. In six cases, an officer was suspended and in five cases dismissed.

Border Guard (2012-2016) – data not disaggregated per type of offence

<b>Administrative complaints handled in the Border Guard</b>					
	2012	2013	2014	2015	2016
Border Guard HQ	10	11	18	17	24
Other Administrative Units	14	13	9	20	18
Total	24	24	27	37	42

<b>Sanctions imposed in administrative discipline procedure</b>					
	2012	2013	2014	2015	2016
warning	5	7	7	3	1
temporary suspension	1	-	2	1	-
dismissal	-	3	2	3	1
cancellation	-	-	1	-	-

<b>Military discipline punishments imposed in military discipline procedure</b>					
	2012	2013	2014	2015	2016
reprimand	7	8	8	3	3
warning	2	4	5	8	3
disciplinary fine	-	-	-	-	1

182. District courts handle a few cases concerning military offences of the Border Guard officials annually. In 2016, four border guards were sentenced to pay a fine and one was given a warning. Four of the cases were related to data protection offences.

183. The GET notes that neither the Police, nor the Border Guard, keep separate statistics on corruption-related cases. The Border Guard pointed out that revealed cases, if any, are reported and published every year in its annual activity reports; separate statistics on corruption-related cases have been considered unnecessary since there have been only a few separate incidents over the course of the years. The GET sees merit in keeping detailed statistics on corruption related misconduct in order to help identify deviant behaviour and better signal those instances for internal control purposes (see recommendation xii, paragraph 163). Publishing the outcome of misconduct cases serves to reiterate the significance of both fully grasping and complying with integrity-related requirements. This is also in line with the importance of reassuring the public of the corrective action that is taken.

## VI. RECOMMENDATIONS AND FOLLOW-UP

184. In view of the findings of the present report, GRECO addresses the following recommendations to Finland:

### *Regarding central governments (top executive functions)*

- i. (i) that a code of conduct for ministers and other persons entrusted with top executive functions be adopted, published and complemented by a system for providing guidance and confidential counselling regarding conflicts of interest and other integrity related matters (gifts, outside activities, third party contacts and the handling of confidential information), and (ii) that it be coupled with a credible and effective mechanism of supervision and sanctions (paragraph 46);
- ii. (i) providing compulsory dedicated integrity training to all persons entrusted with top executive functions at central government level, at the start of their term, to include issues such as ethics, conflicts of interests and prevention of corruption; and (ii) further requiring them to participate in regular integrity training throughout their time in office (paragraph 48);
- iii. that a formal system or systems for review of the declarations of ministers and disclosures of other persons entrusted with top executive functions be established or enhanced, and that the reports filed be used by trained reviewers as a basis for individual counselling regarding the application of rules dealing with disqualification, outside activities and positions, and gifts (paragraph 65);
- iv. (i) addressing the conflicts of interest that can arise with former private activities when an individual comes into government service as a top executive official from the private sector and when the individual wishes to begin negotiating for future employment that will follow government service, and (ii) establishing standards, procedures, and where necessary legislation, to be followed by persons entrusted with top executive functions with regard to their post government activities (paragraph 82);
- v. that for all persons entrusted with top executive functions (including special advisors) (i) the content and time of financial disclosure/declaration requirements be made standardised and specific (i.e. that the filer has no role in determining what is relevant to his or her position and filing and update periods are set); and (ii) consideration be given to widening the scope of reporting to include information on gifts above a certain threshold, as well as information on the financial assets, interests, outside employment and liabilities of spouses and dependent family members (it being understood that such information of close relatives does not necessarily need to be made public) (paragraph 95);
- vi. ensuring that the procedures for lifting immunity do not hamper or prevent criminal investigations in respect of ministers suspected of having committed corruption related offences (paragraph 109);

*Regarding law enforcement agencies (Police and Border Guard)*

- vii. that the Police and the Border Guard develop a dedicated anticorruption strategy/policy which is made known to the public (paragraph 129);
- viii. (i) adopting and publishing a code of conduct for the Police and for the Border Guard, respectively; (ii) complementing them by practical measures for their implementation, notably, through confidential counselling and mandatory, dedicated induction and in-service training. Particular attention should be paid to ethical leadership training (paragraph 132);
- ix. that, in relation to career-related processes in the Police and the Border Guard, (i) adequate checks and controls are in place to prevent any one person from influencing unduly the process; and (ii) internal appeal/conciliation mechanisms are built into the system (paragraph 140);
- x. developing a streamlined system for authorisation of secondary employment in the Police, which is coupled with effective follow-up (paragraph 151);
- xi. further developing guidance in the Police and the Border Guard, respectively, regarding standards and procedures to be followed by their officials when taking up a business interest/secondary employment and when negotiating for future employment once they leave the organisation (paragraph 152);
- xii. (i) enhancing risk management within the Police by further developing an information collection plan for corruption prevention purposes; and (ii) providing for stricter internal oversight, including through regular cross-checks and audits of registers (paragraph 163);
- xiii. (i) establishing an obligation for police officers and border guards to report corruption; and (ii) strengthening the protection of whistleblowers in that respect (paragraph 168);
- xiv. providing dedicated guidance and training on whistleblower protection for all levels of hierarchy and chains of command in the Police and the Border Guard (paragraph 169).

185. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Finland to submit a report on the measures taken to implement the above-mentioned recommendations by 30 September 2019. The measures will be assessed by GRECO through its specific compliance procedure.

186. GRECO invites the authorities of Finland to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

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## About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: [www.coe.int/greco](http://www.coe.int/greco).

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