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# FIFTH EVALUATION ROUND

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

## EVALUATION REPORT

# ICELAND

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 Iceland 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 the Coast Guard).

2. The Icelandic society has become over the years increasingly aware and intolerant to the various forms and manifestations of corruption, especially after the financial crisis of 2008 which revealed how the excessive intermingling of private interests with the management of public affairs can generate structural vulnerabilities in a country of that size. Such issues remained at the centre of recent controversies which have contributed to the resignation of two successive governments, and other senior government officials. It is striking that in such a context, the anti-corruption steering group established by the government in 2014, has not elaborated any strategic action or dedicated overarching policy to promote integrity in State institutions.

3. As far as ministers and other government officials are concerned, codes of conduct and other relevant integrity rules have been adopted over the years but these texts have not become as yet living documents used in daily practice. Consistency issues have also been observed (for instance as regards gifts and other benefits), contacts with third parties seeking to influence government work –, including lobbyists – are not regulated at all. The same goes for revolving doors and, to some extent, parallel activities. There is also a clear need for a credible enforcement mechanism to ensure effective compliance with those various standards of conduct. The action of the Prime Minister's Office has so far focused on raising awareness and providing advice and in that area too, a more dynamic approach is clearly needed. Above all, an overarching strategy needs to be adopted to develop integrity policies regarding senior executive functions, especially when it comes to the management of conflicts of interest. For the time being, Iceland has taken no significant measures to strengthen the system of periodic declaration of assets and interests concerning persons with top executive functions, including in respect of their relatives and dependent family members although their situation is also a recurring subject of public debate in Iceland. A positive result of Iceland's increasing intolerance for integrity-related misconduct involving government officials is that it sometimes leads to their resignation, contrary to the past. However, this should not remain the only response to possible misbehaviour and Iceland needs to ensure that the regular criminal justice bodies have clearly the primary jurisdiction to deal with cases which are not strictly related a minister's political responsibility.

4. As for law enforcement agencies, and first and foremost the Police, the report is pleased to note that they are among the most trusted public institutions in Iceland. That said, a series of structural factors impede the development of more ambitious integrity-based policies and create certain risks. Iceland needs to increase the overall resources of law enforcement agencies so that officers would not have to resort to extra shifts and to other sources of income, and so that more staff can be hired and "four-eyes" working routines can be developed. The current organisation of the police, which places all district commissioners under the direct authority of the Minister, prevents for instance the establishment of much needed central structures responsible for internal controls and disciplinary inquiries for instance. At the same time, the filling of vacancies should as a rule, be based on open competitions and objective criteria. In parallel, the widespread system of renewable 5-year contracts, combined with the traditional importance of political factors generates additional risks of nepotism and cronyism, especially for those with managerial responsibilities. Also in the case of law enforcement agencies, there is a need for a more robust and effective rules of conduct (dealing with gifts, conflicts of interest and political activities in particular), accompanied by appropriate guidance and enforcement mechanisms. Additional adjustments are also recommended to help break any possible sign of a code of silence within law enforcement, including through the development of adequate protection for those who report suspicions of misbehaviour, as they are required to.

## II. INTRODUCTION AND METHODOLOGY

5. Iceland joined GRECO in 1999 and has been evaluated in the framework of GRECO's First (in September 2001), Second (in July 2004), Third (in April 2008) and Fourth (in March 2013) Evaluation Rounds. The relevant 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>

6. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Iceland 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 Iceland, 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, Iceland shall report back on the action taken in response to GRECO's recommendations.

7. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Iceland from 2 to 6 October 2017, and reference was made to the responses by Iceland to the Evaluation Questionnaire, as well as other information received from governmental institutions, civil society etc. The GET was composed of Ms Lenka HABRNÁLOVÁ, Head of the International Organisations Unit, Acting Director, International Cooperation and EU Department, Ministry of Justice (Czech Republic), Ms Martina KOGGER, Head of Department, Bureau of Anti-Corruption, Ministry of the Interior (Austria), Ms Birgitta NYGREN, Member of the Board and Vice-Chairman of Transparency International Sweden (Sweden), Mr Alvis VILKS, Former Deputy Director of the Corruption Prevention and Combating Bureau (KNAB), Head of Quality Assurance Department in a State Company (Latvia). The GET was supported by Mr Roman CHLAPAK and Mr Christophe SPECKBACHER from GRECO's Secretariat.

8. The GET held interviews with the Minister of Justice and a Permanent Secretary of the Ministry of Justice, the Deputy Director of Public Prosecutions as well as representatives of the Ministry of Justice, the Prime Minister's Office, the Ministry of Finance and Economic Matters, the Information Committee, the National Commissioner of the Icelandic Police, Reykjavik Metropolitan Police, the Icelandic Coast Guard, the Directorate of Customs, the Office of the District Prosecutor, the National Audit Office, the Ombudsman, the Althingi (Parliament), the Personal Data Protection Agency, the Monitoring Committee on Complaints regarding the Police. The GET had also interviews with the media, NGOs (Gagnsæi - Icelandic Chapter of Transparency International), academia, police unions and lawyers.

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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

9. Iceland has been a member of GRECO since 1999 and it has been subject to four evaluation rounds focusing on different topics related to the prevention and fight against corruption.<sup>2</sup> Overall, Iceland has a good track record in implementing GRECO recommendations: 67% of recommendations of the first evaluation round had been fully implemented (with one recommendation partly implemented out of three), 50% of recommendations of the second evaluation round (with three recommendations partly implemented out of six), 73% of recommendations of the third evaluation round (with four recommendations partly implemented out of fifteen) and 50% of recommendations of the fourth evaluation round (with three recommendations partly implemented and two not implemented out of ten).<sup>3</sup> The compliance procedure under the fourth evaluation round is, however, still on-going.<sup>4</sup>

10. After many years in the top position(s) of Transparency International's Corruption Perception Index, Iceland has experienced a downfall over the last decade and ranks number 13 in the 2017 Index. According to the results of a national poll released in 2017<sup>5</sup>, nearly half of respondents expressed worries about corruption in finance and/or politics in Icelandic society. Academic literature sometimes points out that "the extent of corruption in Iceland is highly contested. International corruption measures indicate a relatively small amount of corruption while domestic public opinion suggest a serious corruption problem", with several authors maintaining that "cronyism, nepotism, clientelism and other forms of abuse of power probably played a role in the genesis of the financial crash in 2008".<sup>6</sup> Iceland has no dedicated policy documents (strategy, action plan etc.) on corruption. Under the international pressure, an Inter-Ministerial Steering Group on corruption was established approx. 4 years ago<sup>7</sup> to advise the government, follow-up on implementation of international agreements and to promote anti-corruption reforms. Concrete output has so far remained limited and the elaboration of a general policy document, which was one of the benchmarks, was stalled despite reoccurring crises triggered by allegations of hidden wealth and conflicts of interest, which have contributed to the collapse of the previous two governments. Moreover, civil society representatives have left the above Steering Group for what they see as a lack of political will of previous governments.

11. The report of the Special Investigation Committee (SIC), set up by the Althingi in 2008 to study the reasons of the financial collapse, singled out three former ministers including the former Prime Minister and four other public officials for showing negligence when failing to respond appropriately to the danger that the deteriorating situation of the banks posed to the Icelandic economy. The former Prime Minister was convicted in April 2012 of one count of negligence but was not sentenced. The trial was controversial<sup>8</sup>. At the same time, the fact that top executives from 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> 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. For update please check the GRECO website: <https://www.coe.int/en/web/greco/evaluations/iceland>

<sup>5</sup> <https://grapevine.is/news/2017/02/15/icelanders-nearly-as-concerned-about-corruption-as-they-are-about-health-care/>

<sup>6</sup> "Measuring corruption: whose perceptions should we rely on? Evidence from Iceland", by Gissur Ólafur Erlingsson and Gunnar Helgi Kristinsson in Icelandic Review of Politics and Administration <http://www.irpa.is/article/view/a.2016.12.2.2>

<sup>7</sup> <https://grapevine.is/news/2015/07/12/interior-ministry-forms-anti-corruption-group/>

<sup>8</sup> The PACE considered it as a lesson to keep political and criminal responsibility separate. The case has been taken to the European Court of Human Rights

banking sector had been convicted was seen as something rather unique compared to the lack of response in other countries<sup>9</sup>.

12. Since then, the Icelandic Prime Minister resigned in April 2016 following massive popular protests<sup>10</sup> reacting to the Panama Papers revelations of his (wife's) offshore holdings linked to banks which had collapsed. Besides the political responsibility it was seen as a violation of parliamentary ethics rules and as a conflict of interest<sup>11</sup>. His successor also happened to be mentioned in the context of the Panama Papers, among 600 Icelandic owners of alleged offshore assets<sup>12</sup>. A new political crisis erupted in September 2017 because of a "breach of trust" in relation to the Prime Minister's father sponsoring in a letter the social/legal rehabilitation of a criminal; this prompted the collapse of the government coalition and early parliamentary election in the following month<sup>13</sup>.

13. As for law enforcement agencies, the police and Coast Guard are among the most trusted state bodies in Iceland according to certain opinion polls<sup>14</sup>. The media have not reported about many integrity-related controversies. In November 2015 an Icelandic policeman was sentenced to ten months in prison for having manipulated the assessment of car-speeding and pocketing a considerable sum of money (embezzlement and other charges including abuse of an official position)<sup>15</sup>. In April 2017 the District Court of Reykjavik sentenced a policeman to fifteen months in prison for selling confidential information to drug traffickers (passive bribery)<sup>16</sup>. This judgement was appealed<sup>17</sup>. The on-site discussions of October 2017 have revealed certain structural problems within the police and risks of political influence, which could be an obstacle to the disclosure of certain problems including in relation to integrity issues.

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<sup>9</sup> <https://www.bloomberg.com/news/features/2016-03-31/welcome-to-iceland-where-bad-bankers-go-to-prison>

<sup>10</sup> <https://www.sbs.com.au/news/panama-papers-iceland-pm-refuses-to-resign-as-revelations-trigger-global-probes>

<sup>11</sup> [https://panamapapers.icij.org/20160405-iceland-pm-resignation.html?utm\\_source=email&utm\\_campaign=watchdog&utm\\_medium=publici-email&goal=0\\_ffd1d0160d-2c98d6685c-100043821&mc\\_cid=2c98d6685c&mc\\_eid=348b19f1e2](https://panamapapers.icij.org/20160405-iceland-pm-resignation.html?utm_source=email&utm_campaign=watchdog&utm_medium=publici-email&goal=0_ffd1d0160d-2c98d6685c-100043821&mc_cid=2c98d6685c&mc_eid=348b19f1e2)

<sup>12</sup> [https://www.washingtonpost.com/news/worldviews/wp/2017/01/11/iceland-ousted-one-leader-named-in-the-panama-papers-but-ended-up-with-another-on-the-list/?utm\\_term=.2b127d5d6b04](https://www.washingtonpost.com/news/worldviews/wp/2017/01/11/iceland-ousted-one-leader-named-in-the-panama-papers-but-ended-up-with-another-on-the-list/?utm_term=.2b127d5d6b04)

<sup>13</sup> [https://icelandmonitor.mbl.is/news/politics\\_and\\_society/2017/09/15/iceland\\_s\\_government\\_collapse/](https://icelandmonitor.mbl.is/news/politics_and_society/2017/09/15/iceland_s_government_collapse/)

<sup>14</sup> <https://www.gallup.is/frettir/traust-til-stofnana-haekkar-milli-ara/>

<sup>15</sup> <https://www.domstolar.is/default.aspx?pageid=347c3bb1-8926-11e5-80c6-005056bc6a40&id=5cbe32c8-559c-49a2-b29a-8942a03811db>

<sup>16</sup> <http://icelandreview.com/news/2016/11/28/police-officer-charged>

<sup>17</sup> <https://www.domstolar.is/default.aspx?pageid=347c3bb1-8926-11e5-80c6-005056bc6a40&id=9e516576-c171-49bd-a072-5de98d9f0450>

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

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

###### *System of government*

14. Iceland is a unitary State. It is a constitutional parliamentary republic with a multi-party political system. Iceland is arguably the world's oldest parliamentary democracy, with the unicameral Parliament, Althingi<sup>18</sup>, established in 930. The main role of the Parliament is to legislate and to oversee the executive branch. Althingi's role of government supervision was strengthened in 2011<sup>19</sup>. New legislation can be initiated by the President<sup>20</sup> (i.e. the Ministers following a discussion in the Cabinet), a Minister in his own right or any member of Parliament.

15. The Head of State is the President of Iceland, who is elected by the people through a direct secret ballot for a four-year term, without limit to the number of terms. The Constitution grants the President considerable powers, most of which are however delegated to, or require a proposal from the Ministers. The President formally forms a government, appointing the Prime Minister and Ministers, but in practice the government composition is decided generally by the majority in Parliament<sup>21</sup>. In theory, when the party leaders are unable to reach a conclusion by themselves in reasonable time, the president could exercise this power and appoint the cabinet himself/herself. This has never happened. The President can also dismiss a government and dissolve Althingi, but in practice it happens when the government loses majority in Parliament and the Prime Minister requests the dissolution of Althingi. The last time the President used this power was in September 2017 when he accepted the request of the Prime Minister to dissolve the Parliament after first attempts to form a new government coalition failed<sup>22</sup>. In fact, the President follows the Cabinet request also for convening or adjourning Althingi.

16. The President can grant a pardon or an amnesty. The President can also decide on exemptions from laws or discontinue criminal prosecution but there are no known examples of the use of these powers in practice. Ministers inform the President of important matters and submit laws to his/her signature ("confirmation")<sup>23</sup>. The President undertakes and hosts state visits, which are meant to be ceremonial in nature. He/she accredits ambassadors and signs international treaties. The President can object to, and submit laws voted by Parliament to a national referendum. The previous President has used this power in practice on three occasions (2004, 2010 and 2011)<sup>24</sup>.

17. According to the Constitution, the President cannot be a Member of Althingi or accept paid employment in the interest of any public institution or private enterprise. The presidential impeachment can be instigated by Parliament, but it has never happened.

18. As agreed by GRECO, a Head of State would be covered in the 5<sup>th</sup> 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

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<sup>18</sup> 63 MPs are elected every four year, by secret ballot on the basis of proportional representation

<sup>19</sup> I.a. through an amendment of Rules of Procedure, by creating a standing committee on constitutional matters and government scrutiny

<sup>20</sup> The Constitution specifies that the legislative power is vested in both the Parliament and the President.

<sup>21</sup> The President occasionally had preferences over the outcome of the negotiations and sought to influence the coalition formation. However he/she has not actually formed governments.

<sup>22</sup> Both Government and Parliament acted until the very day of early election, 28 October 2017.

<sup>23</sup> The President meets with Ministers in the State Council, chaired by the President. "The signature of the President validates a legislative act or government measure when countersigned by a Minister", Article 19 of the Constitution.

<sup>24</sup> The President used this power, provided for by Article 26 of the Constitution, in 2004, to reject a media related bill, and then again in 2010 and 2011 in relation to Icesave bills to guarantee the deposits of account holders outside Iceland.



decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

19. The GET notes that the Head of State in Iceland “is not held accountable for executive acts”<sup>25</sup>. “The President entrusts his/her authority to Ministers”<sup>26</sup>, he/she does not actively participate on a regular basis in the development and/or execution of governmental functions. In practice, the President has not used most of his/her prerogatives foreseen by the current Constitution. Iceland has mainly functioned as a parliamentary republic, despite the many apparent elements of a presidential or semi-presidential system. Although the constitutional power to dissolve the Althingi and the power to form and terminate a government offer certain possibilities to influence the executive, it appears to have been generally used following predictable political rules<sup>27</sup>, without overstepping too much the usual boundaries. The President appears to be informed about important government matters, but he/she is not meant to set or implement government activities.

20. Moreover, the website of the presidential office only lists a dozen of collaborators and the office is not structured in a way as to support active participation in government functions.

21. The role of the President in practice may vary significantly depending on his/her personality and the previous President, who stayed in function for approximately 20 years, sometimes “pushed the boundaries” of what is normally expected from the President. Practice also showed that despite the limited role, the President can be exposed to risks concerning his/her integrity. He rejected laws on three occasions, referring them to popular referenda (sometimes in a context of allegations of a conflict of interests)<sup>28</sup>. Media have also largely reported about his attempts to influence foreign policy, on the subject of EU-membership, the creation of a north Atlantic free trade area, the development of economic and strategic partnerships with countries outside the European area etc.<sup>29</sup> The conduct of the President has also attracted criticism and allegations of conflicts of interest when he supported actively the international expansion of Icelandic businesses prior to the financial crisis, travelling on their jets<sup>30</sup> including in one case, in relation with business groups which have benefited directly from a veto decision<sup>31</sup>. More recently, the media revealed that the former President's wife was benefiting from off-shore arrangements in connection with the taxation of activities in the United Kingdom (although the President had made earlier claims that his household was not involved in off-shore dealings)<sup>32</sup>.

22. The Special Investigation Committee (SIC) issued a report which recommended a reform of the Constitution, with a clarification of the presidential powers. Integrity standards for the President and his office were also recommended.<sup>33</sup> The GET supports this initiative and wishes to underline that in the context of this reform, some of the current presidential prerogatives clearly need to be reconsidered, especially the right to terminate criminal proceedings and to grant derogations to the law (which were inherited from the Danish Monarchy and Constitution and just taken over in 1944 in Iceland's Constitution). However, the GET takes the view that overall the functions of the President

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<sup>25</sup> Article 11 of the Constitution

<sup>26</sup> Article 13 of the Constitution

<sup>27</sup> The government is usually formed by a majority in Parliament. In theory when the party leaders are unable to reach a conclusion by themselves in reasonable time the president could exercise this power and appoint the cabinet himself/herself. This has never happened since independence. The Cabinet suggests convening, adjourning or dissolving the Parliament.

<sup>28</sup> <https://mg.co.za/article/2004-05-17-iceland-in-crisis-over-controversial-media-law>

<sup>29</sup> [https://icelandmonitor.mbl.is/news/politics\\_and\\_society/2016/06/25/brexit\\_is\\_good\\_news\\_says\\_president\\_of\\_iceland/](https://icelandmonitor.mbl.is/news/politics_and_society/2016/06/25/brexit_is_good_news_says_president_of_iceland/); <https://www.express.co.uk/news/world/685377/UK-join-Nordic-alliance-non-EU-countries-Iceland-president-Brexit-EEA>; <https://beyondcollapse.wordpress.com/2011/12/13/iceland-cbc-interview-with-president-olafur-grimmson-transcript-janet-eaton/>

<sup>30</sup> <http://icelandreview.com/news/2005/06/20/president-rides-private-jets-too>

See also Klassekampen.no ([archived](#)), 12 November 2008

<sup>31</sup> <http://icelandreview.com/news/2005/06/16/presidents-wife-hitches-ride-baugur-private-jet?language=en>

<sup>32</sup> <https://www.theguardian.com/news/2016/may/02/iceland-presidents-wife-linked-to-offshore-tax-havens-in-leaked-files>

<sup>33</sup> The report criticised the previous President's active involvement in promoting Icelandic business interests abroad.

(are meant to) remain to a large extent of a formal, representative and ceremonial nature and s/he does not actively and regularly participate in governmental functions. It follows that the Head of State in Iceland does not fall within the category of “persons who are entrusted with top executive functions” (PTEFs) which is covered by the current Evaluation Round. It would nevertheless be timely for Iceland to introduce Integrity standards and transparency requirements for the President – which are currently largely lacking.

23. In practice, the executive power is exercised by the Government. Ministers who together form the Cabinet<sup>34</sup> “are accountable for all executive acts”<sup>35</sup>. The Government of Iceland consists of the Prime Minister (Head of government) and other Ministers. The Prime Minister presides at the meetings of the Cabinet, but in reality his/her role involves mostly coordination rather than direction of government action. In practice, executive actions are decided and legal acts are drafted within individual Ministries. For the most important matters (incl. draft legislation) the Ministers have to consult with the Cabinet. The number of Ministers and their function can vary between Governments. Ministers have discretion on the use of the reserve fund for unforeseen expenses (1% of the budget), but have to notify Althingi of any such decision. The current Icelandic Government is formed by three political parties and has eleven Ministers - six male and five female Ministers. The GET welcomes this balanced gender representation in the government, improved compared to the previous government, which is one of the objectives pursued by Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making.

24. Permanent Secretaries are the highest officials below Ministers, appointed by the latter on the basis of merit for 5 years. Each Minister can employ up to two Political Advisers and the Government as a whole can decide to employ three additional Political Advisers. These advisers assist Ministers in the decision-making, they are appointed discretionarily for the time a Minister exercises his/her functions and they have the status of civil servants. Because of their advisory role in the elaboration of decisions, they are thus regarded and covered by the present evaluation as “PTEFs”.

25. Although rare, appeals for actions or decisions taken by the Government can be lodged before public courts (district courts and the Supreme Court as appeal instance<sup>36</sup>), provided that the decision infringes upon the rights of the applicant. Additionally the specialised Court of Impeachment (*Landsdómur*)<sup>37</sup> adjudicates criminal cases brought by the Althingi against current or former ministers<sup>38</sup>. *Landsdómur* has convened once, in a 2011 case against a former Prime Minister.

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

26. The President gives a leader of a political party the authority to form a Cabinet, usually beginning with the leader of the largest party. The Prime Minister, acting on behalf of the President, submits Ministers for appointment, as well as names and number of ministries<sup>39</sup>. The President appoints the Prime Minister and the Ministers. In reality, the negotiations between political parties usually determine the Prime Minister and Ministers. Ministers are held accountable for their actions according to the Minister’s Accountability Act. Ministers are also subject to the general Penal Code’s provisions on civil servants. Ministers who are not members of Parliament can also take a seat in

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<sup>34</sup> Considered mainly as a coordination body

<sup>35</sup> Article 14 of the Constitution

<sup>36</sup> A three tier court system involving a new court, *Landsréttur*, acting as an appeal court, and a broader role of the Supreme Court, was introduced on 1 January 2018

<sup>37</sup> Act no 3/1963 on the Court of Impeachment

<sup>38</sup> The Parliament may impeach a Minister of the Government on account of his/her acts in office (Article 14 of the Constitution, Act no 4/1963 on Liability of Ministers of the Government).

<sup>39</sup> However, according to the Act on the Government Offices of Iceland it is necessary to get an approval from Althingi by a parliamentary resolution if changes are made to the organisation of ministries.

Government. However, that does not happen frequently<sup>40</sup>. Members of Althingi can submit a motion of distrust against a Minister. If the motion is carried, the Prime Minister is obliged to submit a proposal to the President for the relevant Minister’s release from office. A motion of distrust against a Prime Minister is considered to apply to the Government as a whole. Ministers can and do resign at their initiative. The President grants upon request, the resignation of a Minister or the Government as a whole (this has happened in the recent political crisis). Althingi may also impeach Ministers on account of their official acts. *Landsdómur* has competence in such cases. The Minister’s Accountability Act provides for a system of Impeachment (see also at the end of the present report, the section on “criminal proceedings and immunities”).

27. Permanent Secretaries of Ministries are appointed by Ministers following an open recruitment procedure. A special evaluation committee, established ad hoc for each vacancy notice, has an advisory role in the hiring process. The final legal and political responsibility rests with the minister. Alternatively, a person who is already a senior civil servant can be moved / promoted to the post of a Permanent Secretary. Permanent Secretaries are accountable to their Minister according to the Government Employees Act. There are no special rules on Permanent Secretaries being members of Parliament. The Government Employees Act regulates a Permanent Secretary’s removal from office.

28. Political Advisers are selected by and report to the respective Ministers. The main role of these advisers is to work on policy issues and advise the Ministers on other matters in cooperation with Permanent Secretaries and other civil servants in each Ministry, in addition to other political obligations decided by the Minister. The Act on Government Offices in Iceland allows Ministers to hire up two Political Advisers. The Government as a whole can decide to add three additional Advisers if needed. The selection of Political Advisers is not subject to the public application process provided by the Government Employees Act. They can stay in office for the maximum duration of the Minister’s mandate. Political Advisers do not have the authority to take or sign governmental or administrative decisions on behalf of the Minister.

29. Recently, the Ombudsman rendered an opinion which dealt with the status of political advisers (after one was prosecuted and convicted). This opinion resulted in the revision of post descriptions for political advisers and of the rules on the registration of contacts. The Prime Minister has also recently established a working group, tasked with analysing and improving trust in the Public Sector, which is expected to revise the Code of Conduct for Ministers, among other concrete initiatives.

30. From 1 November 2016 the following monthly wages apply:

Post	Salary
Prime Minister (from 1/11/2016)	2.021.825 ISK / 16 114 € month
Other ministers (from 1/11/2016)	1.826.273 ISK / 14 556 € month
Permanent Secretary in the Prime Minister’s Office (from 1/07/2016)	1.339.043 ISK / 10 672 € month
Other Permanent Secretaries (from 1/07/2016)	1.294.693 ISK / 10 319 € month

31. The salaries of political advisers are the same as those of heads of departments.

32. Ministers are reimbursed for expenses related to the office, including travel. Every Minister has access to a service car with driver. Ministers are also provided with mobile phones. Ministers benefit from the same pension system as civil servants. Permanent Secretaries benefit from mobile phones and travel reimbursement. Permanent Secretaries also receive extra monthly payments of around 450.000 ISK / 3 578 € for overtime.

<sup>40</sup> 21 Ministers outside parliament in total, the first in 1919, the last in 2016

33. The average salary in Iceland was 612.000 ISK / 4 882 € per month (2015), which means a gross average annual salary of 7.344.000 ISK / 58 518 €.

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

##### *Dedicated policy for prevention of corruption and promotion of integrity*

34. There is no dedicated strategy or policy for the prevention of corruption and promotion of integrity. Public institutions and public sector employees in Iceland are guided by laws, procedures, codes of conduct and operational practices, with regard to the following main indicators for good governance: Voice and accountability, political stability and absence of violence/terrorism, government effectiveness and regulatory quality, rule of law and prevention of corruption. The principles of good governance, transparency and integrity are considered as important for public administration.

35. In 2014, an Inter-Ministerial Steering Group was created. It has focused on the implementation of international anti-corruption commitments and amending laws in response to the recommendations of GRECO and the OECD Working Group on Bribery. The GET was told that the Group had started drafting an anti-corruption action plan but that the work had stopped or suspended at some stage. This Group meets four to five times per year and consults with public and private stakeholders.

36. Codes of conduct in the integrity area have developed mainly as a consequence of the financial crisis and a series of scandals involving top level officials. The progress in the integrity area has slowed down in recent years. The GET did not come across a coordinated system of analysis of corruption risks factors in relation to PTEFs.

37. The GET is disappointed to see that the work of the interministerial working group established in 2014 has not lead to much concrete results. The multiplication of codes of conduct applying sometimes to the same categories of officials (see hereinafter the specific section on rules of conduct) is not in itself the most robust response to the challenge posed by the development of integrity policies and risk management in that area. Bearing in mind the specific circumstances and vulnerabilities observed in Iceland, the low level of trust in elected officials, the fact that integrity issues have had such an importance as to even destabilise two successive recent governments, the GET considers it timely to adopt an overarching integrity plan for Government members and other PTEFs, including permanent secretaries and political advisers, who appear to have been insufficiently taken into account by the efforts of the Prime Minister's Office. It could build upon the recommendations contained in the present report. An important area of action would be the transparency of PTEFs with regard to their outside interests (and assets) and to devise solutions to improve the management of conflicts of interest in this connection. The GET recalls that tools such as blind trusts, where the assets are placed temporarily out of reach of a government official, can be useful to limit risks connected with certain types of conflicts of interests. Awareness-raising measures would need to be an integral part of such a plan. GRECO recommends developing a strategy to improve integrity and the management of conflicts of interest with respect to persons entrusted with top executive functions, including through responsive advisory, monitoring and compliance mechanisms.

##### *Legal framework, ethical principles and rules of conduct*

38. The Government Employees Act no. 70/1996<sup>41</sup> obliges government employees to perform their duties with diligence and care in every respect. The Act also clearly indicates that Icelandic

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<sup>41</sup> The Government Employees Act (Chapter IV, "Duties") deals with the performance of public officials (diligence and care, fairness and impartiality, obligation to obey lawful orders, respecting working hours, confidentiality, an obligation to report secondary work, etc.).

public officials are expected to report suspected offenses they come across in their work. It provides for disciplinary measures (reprimand and termination of work) as well as some procedural rules in case of violations/negligence of duties. Before a reprimand or another sanction is decided by a public agency there is always a procedure of consultation with the public official concerned and the decision is reasoned.

39. If a public official is suspected of criminal activity, a police investigation will be conducted and the General Criminal Code no.19/1940 and the Law on Criminal Procedure no.88/2008 will apply. Criminal proceedings do not exclude disciplinary proceedings. The General Penal Code contains provisions criminalising active and passive bribery of public officials<sup>42</sup>.

40. The Information Act No. 140/2012 is also important in implementing transparency and integrity in the public sector. It grants public access to information and documents in the public administration. Refusals of access to information can be appealed to the Information Committee free of charge. The Committee's decisions can be challenged in court. Other relevant laws include the Act on Public Procurement No. 120/2016 and the Act on Measures against Money-Laundering and Terrorist Financing, No. 64/2006. This legal framework applies to the Prime Minister, ministers, permanent secretaries and political advisers.

41. The authorities indicated at the time of the on-site visit that several codes of ethics apply to Ministers, including in the first place the Code of Conduct for Ministers (2011/2017)<sup>43</sup>, but also the Code of Conduct for Members of the Althingi, the Code of Conduct for staff of the Government Offices in Iceland (2012)<sup>44</sup> and the General Code of Ethics for the Civil Service (2013)<sup>45</sup>. The last two codes apply also to permanent secretaries<sup>46</sup> and political advisers. In their latest comments, the authorities explained that the over-arching logic of the system is that PTEFs must abide by the "highest" code that can be considered to apply to them (e.g. ministers would primarily be guided by the Code for Ministers). All these codes were prepared by a coordination committee involving Ministers, civil service representatives and independent experts. The codes do not contain sanctions for breaches of their provisions. The relevant laws, in particular the Government Employees Act, provide for sanctions.

42. Pursuant to the Ombudsman's recommendation, each government approves its own Ministerial Code of Conduct (signed by the Prime Minister). The practice shows that the 2011 code of conduct is usually (slightly) updated by each successive government. No particular analyses of risks are conducted before the code is updated, although the Institute of Ethics at the University of Iceland is to be consulted<sup>47</sup>. The GET takes the view that the dynamics and continuity of the ministerial codes, as adopted by one government after the other, would benefit from connecting this process to a mechanism analysing and mitigating particular risk of conflicting interests and corruption relating to the conduct of PTEFs.

43. The Ministerial code adopted by Regulation no 360/2011 and the text of the previous government's Ministerial Code of Conduct 190/2017 from 21 February 2017 provide for : general requirements for ministerial work (*incl. dedication, loyalty, honesty, sparing use of public funds, prohibition to use official position / information / resources for personal benefit, public interest*); avoidance of conflicts of interest or its appearance, reporting of conflicts of interest, reporting of

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<sup>42</sup> Currently a draft law has been prepared by the Ministry of Justice to increase the maximum sanction for active bribery, from 4 to 6 years' imprisonment.

<sup>43</sup> The Code of Conduct for Ministers was originally published in 2011, revised in 2016 and reissued in February and then December 2017. The Prime Minister signed the Code on behalf of the Government as a whole.

<sup>44</sup> The Code of Conduct for staff of the Government Offices in Iceland was issued by the Prime Minister in 2012 after consultation with the Ethics Institution of the University of Iceland. See text enclosed.

<sup>45</sup> The General Code of Ethics for the Civil Service was approved by the Minister of Finance and Economic Affairs on 22 April 2013.

<sup>46</sup> Unless they are also MPs in which case the code of conduct for parliamentarians would also apply.

<sup>47</sup> Pursuant to Article 24 of the Act on the Government Offices

financial interests to the Althingi office; exclusivity of the position (no other paid jobs allowed unless authorised), prohibition of gifts (except minor gifts) and courtesy trips (unless linked to official duties). Ministers are required to facilitate public access to information on their activities, to address unethical behaviour within ministries, to treat business interests overseas with equality, to respect neutrality and political independence of public officials, distinguish partisan political interests and ministerial activities. The Ministers may seek professional advice from their ministerial staff or from the Prime Minister's Office. Complaints concerning violations of the code may be lodged with the Althingi Ombudsman.

44. Ministers, who are usually also MPs, are thus required to comply with the Code of Conduct for the Althingi (adopted 16 March 2016), which is also based on a set of principles of behaviour (incl. integrity, honesty, public interest, responsible use of resources, initiative, leadership, discretion, confidentiality). The code requires avoiding and disclosing ad hoc conflicts of interests, it prohibits acceptance of inappropriate payments or gifts and the use of public office for private gain, it requires disclosing financial interests and registering gifts or benefits (incl. travel expenses, subsistence, or hospitality expenses). The Code contains specific rules on its monitoring, enforcement and advisory channels. Individuals and legal persons can submit in their own name written and reasoned communications regarding alleged violations of the Code of Conduct. The Speaker's Committee is vested with main responsibility regarding compliance of MPs with their obligations under the Code. It is assisted by a dedicated Advisory Committee, whose composition includes lay membership.

45. The Code of Conduct for Staff in the Government Offices provides in particular for the following requirements: boundaries between politics and public administration and between private lives and official duties, confidentiality, prudence in dealing with State funds, public interest, non-acceptance of valuable gifts. It also requires reporting "morally reprehensible" or illegal activities, preventing and reporting of conflicts of interests, treating interests groups with equality. The General Code of ethics for the Civil Service refers to the values of integrity, impartiality and efficiency. It makes references in particular to the institutional reputation, avoiding conflicts of interest, ensuring impartiality and professional independence, and reporting illegal actions and decisions.

46. The GET observed a discrepancy between the many standards which exist on paper, and the situation in practice where transparency, integrity-related subject matters and improper conduct have led to many scandals and resignations. The GET recalls that it is important for rules of conduct to be effective, that these are clear and practical enough to be used in daily practice, that there is a clear requirement to comply with them and that their implementation is monitored in practice. This is currently not the case in practice. Detailed guidance including definitions, explanations and examples would be needed, as several chapters of the present report have shown (for instance on gifts, conflicts of interest, the (mis)use of administrative resources and one's position). These should also explain which code applies in which case and in respect of whom. The fact that ministers, in particular, are currently covered by up to four different codes is not a satisfactory situation.

47. The GET appreciates the latest explanations provided by the authorities, according to which the more specific text prevails over the more general ones, and that ministers in particular are primarily guided by the specific Code for Ministers. This contrasts with the information which was provided before and during the evaluation visit, which made equal references to the other sets of rules including those of the Althingi (a situation also reflected under various headings of the present report – see for instance those on conflicts of interest and on gifts), it is clear that the present situation can lead to unnecessary difficulties in practice, when it comes to which standards to apply to certain situations. As pointed out in the above paragraph and in paragraph 113, it is important to ensure the effectiveness of these standards through adequate supervision. It is equally important that PTEFs have access to confidential counselling to obtain further guidance on the various integrity standards. GRECO recommends that (i) the codes of conduct for persons entrusted with top executive functions be harmonised or consolidated as the case may be, and complemented with

appropriate guidance, including explanatory comments and concrete examples, as well as with confidential counselling and (ii) a credible mechanism of supervision and sanctions be put in place.

*Institutional framework*

48. Iceland does not have a dedicated entity responsible for promoting integrity and preventing corruption, but several mechanisms and entities that do perform indirectly similar functions.

49. According to the Act on Government Offices of Iceland, the Prime Minister's Office is responsible for the interpretation of Codes of Conduct, education on them and ensuring that they are effective. Pursuant to the Code of Conduct for Ministers, a Minister may seek advice from the Prime Minister's Office in cases of doubt. Moreover Permanent Secretaries and Political Advisers may seek advice. The advice is provided on case by case basis, but with a general concern to ensure consistency. The Ethics Institution of the University of Iceland provides support when needed. The Prime Minister's Office has assumed gradually this new role after the crisis. In the first place it had liaised informally with Ministers and Ministries (through phone calls and emails) and then established a more formal communication (by letters). At least three ministers from previous governments have asked the Prime Minister's Office for approval before accepting payments from side occupations and one minister consulted before accepting a courtesy trip from a private entity.

50. Executive action is also scrutinised by Althingi<sup>48</sup>, in particular its parliamentary committees or individual Members<sup>49</sup>. The Prime Minister presents annual reports on follow-up to parliamentary resolutions, obliging Ministers to provide information on important matters. Standing committees of Althingi can summon Ministers and other officials to hearings and ask them about specific decisions or cases. The Constitutional and Supervisory Committee is important in this regard and has a wide scope of competencies, in particular regarding the constitutional matters, elections, the activities of the President of Iceland, the Althingi and the Government. The Committee may, on its own initiative or pursuant to a proposal received, request that the Auditor General (NAO) prepare a report of specific matters or issues falling within the scope of his work<sup>50</sup>. Moreover, the committee discusses reports from the National Audit Office and the annual report and opinions of the Ombudsman. The Committee can also take the initiative in investigating any decisions of individual Ministers. All Committees have an extensive right to receive information from the Government, within seven days.

51. Additionally, the Althingi can establish special independent investigative committees to investigate publicly important cases. The Supervisory and Constitutional Committee advises the Althingi concerning appropriate times to appoint an investigative committee. In case of suspicion of a criminal offence, the committees inform the Director of Public Prosecutions, who decides on a criminal investigation. Several investigative committees have been established over the years and they have submitted reports – including in the aftermath of the financial collapse in Iceland but also on the issue related to the privatisation of the Icelandic banking sector in the 2000s.

*Awareness*

52. The central services of the Ministries (previously the Prime Minister's Office) run the School for Central Government, which provides regular initiation courses on integrity and other important issues for new Ministers, Permanent Secretaries and other officials' newcomers. A special handbook, compiling texts on rights and obligations, is handed out to all Ministers and they are briefed along with their Political Advisers in the start of their term. Regular training is organised for ministerial

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<sup>48</sup> Article 48 of the Standing Orders

The Standing Orders of the Althingi have the same standing as general legislation. Chapter IV in the Standing Orders of Althingi details the supervisory work of the parliament. Articles in other chapters of the Standing Orders are also relevant.

<sup>49</sup> Each Member of Althingi may request, subject to the permission of Althingi, information from a Minister or an answer regarding a public matter, by tabling a question or requesting a report, Article 54 of the Constitution.

<sup>50</sup> The same shall apply if nine Members of Parliament so require by means of formal request for a report submitted at a plenary meeting of Althingi, in which case the request shall be tabled, Article 19 of Act on the Auditor General and the auditing of government accounts no. 46/2016.

staff, but currently not for Ministers. In 2015 the Ethical Institute of the University of Iceland held a seminar on the Code of Conduct for Ministers and Members of Parliament.

53. As set out above, the Prime Minister's Office provides on-going advice and guidance on integrity requirements and expected behaviour. This advice is provided upon request. The GET notes that MPs, including those who are Ministers, are required to sign a declaration stating that they have read the Code of Conduct for the Members of the Althingi. The GET encourage that a similar practice be applied to the Ministers with regard to the Code of Conduct for Ministers, and to Permanent Secretaries and Political Advisers with regard to other applicable ethical standards.

54. The Codes of Conduct have been made available to the public on the government offices' website. The Codes have also been printed out on posters to be put up at Governmental offices. There has been no specific awareness raising campaign for the general public but the ethical standards for PTEFs have been subject to active public discussions and media coverage.

55. It emerged from the on-site discussions that insufficient attention is paid at present to raising awareness of PTEFs, not only of their legal obligations, but of the specific integrity challenges of their office. Compliance is believed to be up to the individuals themselves and unethical behaviour does not lead to adequate consequences, unless it implies criminal behaviour.

56. The GET was made aware of several recent cases where integrity rules had been breached by PTEFs. A case concerned a Minister of Interior who had to resign following improper interference in an on-going police investigation (2014). A Permanent Secretary to the Minister of the Interior was convicted for insider trading (selling shares on the eve of a financial crash) and a political adviser was convicted for leaking confidential documents to the media. The GET did not obtain convincing information showing that recent governments have drawn concrete lessons, especially in terms of increased awareness-raising efforts. A number of additional initiatives can be taken, for instance in the form of training and reviewing the promotion of the codes of conduct (asking ministers and other officials to sign an acknowledgement of receipt and commitment to complying by its content etc.). Therefore, GRECO recommends that efficient internal mechanisms to promote and raise awareness of integrity matters among persons entrusted with top executive functions be established and properly implemented, including training at regular intervals.

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

##### *Access to information*

57. The Information Act no. 140/2012 regulates access to Government documents not only related to executive function (including copies of correspondence), and specifies when they are public or confidential. This matter is regulated by further provisions such as those of the Act on the Protection of Privacy as regards the Processing of Personal Data, the National Archives Act and a separate Act on Access to Environmental Information.

58. Pursuant to Article 5 of the Information Act, public access is granted on request as a main rule to the entire file or parts thereof (if specific parts are restricted). The Icelandic authorities pointed out that there are, however, a number of exceptions to the general duty to disclose information, for instance in case there is a need to protect certain public or private interests (sensitive information) or financial / commercial business interests. In such cases, these interests are weighed against the interest of the public to know ("harm and public interest test"). According to Article 6, public bodies are permitted to restrict access to certain types of documents, including minutes of State Council and Cabinet meetings, memoranda at ministerial meetings, correspondence with experts for use in legal proceedings, material related to personnel matters and internal draft documents. As a rule, minutes of Government meetings are not made available to the public. The agenda is usually published to the media after a meeting has taken place, although a Minister can



decide not to disclose that a certain matter has been discussed. Important decisions are made public after Government meetings, either by press release or on the relevant Ministry's website.

59. Pursuant to Article 13 of the Information Act, the Government authorities are to inform the public about Government activities on their own initiative, for instance by publishing reports electronically, summarising important programmes or publishing other types of material. The annual budget is transparent and accessible. The proposal for national budget is published each year and the public can also access its comprehensive summary on the Governmental website. The final central Government accounts are published on the website of the Financial Management Authority<sup>51</sup> as well as the National Auditor's annual report.

60. Refusals of access to information can be appealed free of charge to the Information Committee, which is an independent appeal committee, composed of three members appointed by the Prime Minister, who meet every month (5 to 10 decisions are adopted each time). The Committee's decisions can further be challenged before the Ombudsman or in court. The Ombudsman has processed 12 complaints in which applicants were not satisfied with the decisions of the Information Committee. The Committee had an important backlog after the financial crisis, with decisions in certain cases taking up to three years. The GET was informed that currently it takes 3-6 months to obtain a decision of the Committee. The Committee lacks support staff, in particular legal advisors.

61. The GET welcomes the recent creation of a dedicated Government website where the public can access information about individual transactions and payments concerning goods and services supplied to ministerial agencies<sup>52</sup>; other public institutions will be included in future phases of the project, as the authorities have pointed out. This good practice could inspire other public institutions in Iceland, as well as other countries. That said, access to information held by ministries and other public authorities remains a problematic area, as several persons met on site pointed out. Although the Information Act no. 140/2012 is fairly detailed and is to ensure the right of access as a main rule, there appears to be many circumstances where access is denied (for instance as regards "working documents", although the Information Committee has reportedly interpreted this concept narrowly) or where the public institution retains excessive discretion in denying / limiting access. Given the various difficulties faced by the Information Committee (backlogs, lack of resources, lengthy proceedings), and a persisting perception that too many requests are denied in practice because of the above, this matter would need to be closely monitored by the authorities.

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

62. Draft laws proposed by the Government are often subject to consultation (in written form and via meetings). All stakeholders who might be most affected by the proposed legislation are involved (e.g. individuals, businesses or local Government entities). Consultations with unions and business associations are considered important where relevant. The relevant Ministry then reviews and takes notice of the comments submitted. The explanatory notes of the bill include a summary of the consultation process.

63. As a rule, the Ministries regularly publish draft bills on their websites. During the summer 2017 these websites were merged into one website for the Government Offices of Iceland. Moreover there is now a dedicated web-portal for public consultation on draft bills<sup>53</sup>. A bill is usually published with explanatory notes and a description of the most important features and/or amendments. The public has at least two weeks to submit comments and proposals regarding the bill which is then reviewed again in the Ministry, introduced and approved by the Cabinet and then submitted to

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<sup>51</sup> See <http://www.fjs.is/utgefid-efni/rikisreikningur/>

<sup>52</sup> See <http://opnirreikningar.is/>

<sup>53</sup> <https://samradsgatt.island.is/>

Althingi for discussion and possible adoption. According to a government resolution from March 2017 on the preparation and completion of draft bills, draft bills shall be disclosed to the public for comments, unless there are important reasons for not doing so (in which case reasons shall be indicated at a Cabinet meeting).

64. All draft laws are made publicly available on the Althingi website once they are formally introduced. Interested parties can submit comments which are also made publicly available.

65. Draft regulations are increasingly being published for consultation but there has not been taken any decision at central level on the use of this practice, unlike as regards draft primary legislation. Stakeholders are consulted to the extent possible similarly to the legislation procedure.

### *Third parties and lobbyists*

66. There are no specific regulations on PTEF' relations with lobbyists and other persons who seek to influence government work, apart from what appears in the various codes of conduct discussed earlier when it comes to the registration of contacts. Access to information about PTEFs' contacts with third parties can be granted pursuant to the Information Act. According to the Information Act and also the Act on the Government Offices of Iceland, such contacts should be registered by the authority concerned. But Iceland has no register of lobbyists. More importantly, from the perspective of the present report, there are no rules on how government officials engage in contacts with outside interests who would seek to influence governmental work, including its legislative/regulatory activity. This gap needs to be addressed. The GET also recalls that some guidance for the drafting of such rules can be found in existing European standards<sup>54</sup>. GRECO recommends introducing rules on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other work.

### *Control mechanisms*

67. According to the Public Finance Act, the director of a public body is responsible for internal audit and control.

68. The Financial Management Authority is an independent agency under the Ministry of Finance and Economic Affairs, which centralises service and development responsibility for the Government financial-, account- and payroll systems (Oracle and other IT systems).

69. The National Audit Office (NAO) is an independent oversight institution reporting to the Althingi. The NAO audits the state accounts and the financial statements of state bodies, monitors and promotes improvements in public financial management and in the use of public funds. The legal status, role and mandate of the Office are laid down in the Act on the Auditor General and the auditing of Government accounts no.46/2016. The Office follows the standards and guidelines of the International Organisation of Supreme Audit Institutions (INTOSAI). The Auditor General is elected by the Althingi for a period of six years and he/she employs the staff. The staff is required to remain independent from the ministries and organisations they audit. The NAO enjoys independence in choosing assignments and reaching conclusions. Its reports are available to the public<sup>55</sup>. The NAO plays an important watchdog function not only with regard to the efficient spending of public finances but also with regard to the detection and prevention of corruption.

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<sup>54</sup> In particular, the Committee of Ministers Recommendation CM/Rec(2017)2 Regulations on lobbying activities in the context of public decision making.

<sup>55</sup> See NAO website on <https://rikisendurskodun.is/utgefid-efni/skyrslur-til-althingis/>

70. The Althingi Ombudsman is elected for a period of four years (Act no. 87/1987 on the Ombudsman of the Althing). The Ombudsman is also independent from Parliament, when exercising his/her functions. The Ombudsman is in charge of safeguarding human rights and monitoring the administration of public affairs in conformity with the law (in particular the Administrative Procedure Act, the Act on the Government Offices of Iceland and the Government Employees Act), codes of conduct and good administrative practice. Any person (citizens or aliens) or associations of individuals who feels unfairly treated by the public authorities, including those unhappy with decisions of the Information Committee on access to information, may lodge a complaint with the Althingi Ombudsman<sup>56</sup>. The Ombudsman may take up a matter following a complaint and launch an investigation. The Ombudsman can also initiate examination of a matter on his own initiative (*ex officio*) and may cause a person to be summoned before a district court judge to give evidence on a particular case. Criminal procedure law applies in such cases. The Ombudsman can contribute to the disclosure of specific corruption cases by launching an investigation following a complaint, by notifying the relevant authorities (ex. State Prosecutor, Althingi) in cases of a breach of duty or an offence or by causing a person to be summoned before a district judge to give evidence. Through his/her opinions the Ombudsman can furthermore contribute to the closing of gaps in legislation and procedures thus reducing risks and opportunities for corruption. His/her conclusions are not by binding on the authorities, yet they are reportedly followed, as a rule. The Ombudsman reports to the Althingi annually. The legality of administrative decisions, i.e. the question whether they are based on lawful and pertinent considerations, can also be referred to the courts.

71. The GET notes that the Icelandic media nowadays play an important role in discouraging wrongdoings and corruption involving PTEFs thanks to their reporting activity. The existence of large media groups, connected to significant business and also political interest remains a particular constraint for the survival of smaller, independent media. More importantly, investigative journalism is confronted in Iceland with a number of various criminal law provisions described as “out-dated” by journalists met by the GET. These would be used extensively in practice to block the publication of sensitive reports. Several cases concerning media freedom have been taken to the European Court of Human Rights.

### Conflicts of interest

72. There is no general definition of “conflicts of interest”. The general rule on preventing and avoiding conflicts of interest can be found in the Government Employees Act that obliges Government employees to “perform their duties with diligence and care in every respect.” An employee may not be adversely treated for disclosing the violations of laws or ethical rules.

73. The Code of Conduct for the Staff of the Government Offices of Iceland indicates that “Government Office staff shall take care that no involvement with family relations, friends or interests affects their work.” The Code of Conduct for Cabinet Ministers also addresses the conflicts of interests in general terms in Article 2: “Ministers shall avoid any conflict of interests and not allow personal connections to affect their work. Ministers shall endeavour to ensure that staff is appointed to office according to merit.” The Icelandic authorities underlined that as Ministers are usually also MPs, the Code of Conduct adopted by Althingi in 2016 can also apply to them. Article 8 of this Code provides that “In the discharge of their duties Members shall avoid conflicts between the public interest and their own financial or other personal interests, or those of their families. If a Member is unable to prevent such conflict of interests, the conflict shall be disclosed by the Member.” Article 9 then requires that MPs “draw attention to their own personal interests that may be relevant to the process of parliamentary business”.

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<sup>56</sup> Internal appeals should be exhausted first, except when there is a delay in the conclusion of a case or when it concerns the conduct of a civil servant.

74. As indicated below (see the section on declarations of assets, income, liabilities and interests) a system is in place for the systematic declaration of interests of Ministers.

75. Under the Administrative Procedures Act, there is a specific requirement for a civil servant or a committee member to be disqualified from participating in a decision making process in the event of a conflict of interest. Article 3 of the Law provides for a list of disqualification grounds, which are both detailed (e.g. if civil servants/committee members are party in a case, or if they had previously taken part in a case), but also include a broader category referring to any other reason that may compromise impartiality. The disqualification rules apply also to close persons of the persons taking part in the decision-making process (incl. spouse, relatives, immediate superiors...). The question of disqualification is not considered in negligible cases where the role of the official / board member is trivial.

76. A civil servant who is aware of facts which might disqualify him/her shall bring them to the attention of the head of the administrative body in question. The head of the administrative body decides whether the official ought to withdraw from a case. In cases when the eligibility of the head of an administrative body is called into question, he/she shall himself/herself decide whether to withdraw. An administrative committee shall decide whether a member (or members) should withdraw from a case. Members whose eligibility is under scrutiny shall not take part in such decisions. When a civil servant withdraws from a case and there is no-one to take his/her place, the appointing authority shall assign a replacement to handle the case in question.

77. The GET recalls that the proper management of conflicts of interest is instrumental to any integrity policy. Daily practice, as witnessed for instance in the media<sup>57</sup>, shows that it is also an important subject-matter in Iceland. The on-site discussions showed that the efforts have so far remained insufficient to ensure that the few existing rules are effectively applied in daily practice. The situation needs to be analysed more broadly by the authorities, in the context of a global approach which would also take into account the personal outside activities and financial and business interests of members of government. The GET encourages the authorities to improve the management of conflicts of interest, as recommended earlier in this report (see recommendation in paragraph 37).

### Prohibition or restriction of certain activities

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

78. The Althingi Standing Orders' requirement to register financial interests and positions of trust at the beginning of a mandate (Article 80) applies also to the Ministers. Furthermore, the Ministerial Code of Conduct requires Ministers to inform the Althingi Office "about a financial interest or other relationship" that may cause a conflict of interest. The Prime Minister, in consultation with the government, may ask further information and disclose details to the public (Article 2). Similarly to the Code of Conduct for Members of the Althingi, the Ministerial Code of Conduct requires Ministers to avoid and disclose conflicts of interest. There are no restrictions on PTEF holdings of financial interests, except for general provisions in legislation and Codes of Conduct, i.e. rules on the duty for registration and conflicts of interests.

79. The Code of Conduct for Ministers (Article 3) stipulates that ministerial work (generally in addition to being a member of Althingi) is considered a full-time job. Ministers are generally not to engage in any other work during their mandate. Should Ministers take on any other occasional assignment, they are not permitted to accept payment for it unless the payment is within "moderate limits" and has been approved by the Prime Minister. The Ministers are expected to make "a clear

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<sup>57</sup> See for example <https://grapevine.is/news/2017/07/31/environment-minister-bjort-olafsdottir-advertises-dress-in-parliament/> or <http://icelandreview.com/news/2015/10/14/minister-education-trouble>

distinction” between political activities, in particular connected to elections, and ministerial activities (Article 5).

80. Both the Prime Minister’s Office and the Althingi’s Secretariat provide general inception training on applicable ethics standards for Ministers. The training provided by the Prime Minister’s Office involves also Permanent Secretaries. The GET has not received convincing evidence confirming the practical character of this initial training and believes that such training should be provided using practical examples on incompatibilities, parallel activities and financial interests.

81. The GET noted that the Prime Minister’s Office has issued at least three opinions regarding side occupations since 2014, but overall, its role cannot be seen as a sufficiently effective enforcement mechanism. This has already been addressed in other recommendations (see paragraphs 37 and 47). As regards the rules, the exceptions to the prohibition of side-jobs (whether paid or not) are not clearly indicated<sup>58</sup>, nor the activities which are clearly forbidden. The procedure for approving such outside activities has not been spelled out in greater detail, in particular with regard to timeframes. Improvements are thus clearly desirable in this area. GRECO recommends reviewing the rules for persons entrusted with top executive functions engaging in outside activities and to spell out in greater detail the activities which can be exercised and those which are to be excluded.

#### *Contracts with state authorities*

82. There are no specific rules prohibiting or restricting PTEFs to enter into contracts with State authorities, including the one in which they exert responsibilities. This gap shows that robust rules on conflicts of interest are even more necessary (see paragraphs 37, 100 and 103).

#### *Gifts*

83. The Code of Conduct for Ministers states that “The gifts which Ministers accept by virtue of their office shall be recorded and shall accrue to the Ministry concerned. However, this does not apply to personal gifts of a minor nature”. Ministers are not to accept courtesy trips from private entities unless duties of public office are part of them (Article 3). The Code of Conduct for Staff of Government Offices states the following: “Staff shall never personally accept any valuable gifts on account of their work.” The Code of Conduct for Members of the Althingi includes a duty for registration (with the Secretariat of Althingi) of gifts and other similar benefits that they may receive in the course of their work as members. There are no value-related thresholds for gifts and hospitality. Assessing if a gift or hospitality is appropriate is done on a case to case basis by the Prime Minister’s Office. At least one minister has consulted the Office since 2014 before accepting a trip offered by a private entity.

84. With regard to political financing, a separate Act on the Funds of Political Parties and Candidates and their Duty to provide Information stipulates that whoever receives funds prohibited by the Act shall be punished with fines or imprisonment up to two years.

85. The GET welcomes the existence of a variety of rules dealing with gifts and other benefits. However, the multiplication of these can lead to some confusion, especially for ministers who are concerned by four codes and the general declaration duties imposed by the Parliament (which also apply to certain benefits for free). As indicated earlier, the GET appreciates the latest explanations provided by the authorities, according to which the more specific text prevails over the more general ones, and that for instance ministers would primarily be guided by the specific Code for Ministers. But clarification would be desirable to avoid any unnecessary difficulties in practice, for instance, whether Ministers have to declare and register gifts in Parliament or with their Ministry, or both. In

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<sup>58</sup> They could include for example educational, scientific, research, artistic, cultural, sports, publishing activities

the absence of definitions and guidance documents, gifts of “minor nature” could be interpreted in different ways in practice. The GET recalls that other GRECO member States often use (low) financial value thresholds in order to establish strict limits on gifts and other benefits, something Iceland could draw inspiration from. In addition, contrary to what was assumed during the on-site discussions, the ministerial registers are not necessarily public. Moreover, the GET was told that where the register is not visible on-site, a citizen can make a formal request invoking the rules on access to information. The GET considers that a more coherent approach and greater transparency effort is required, recalling one of the observations made in the Fourth Round Report, which referred to “blurred hospitality between ‘friends’ – e.g. politicians and powerful members of the business community - and gifts that could be defined as creating a potential conflict of interest for someone in public office”<sup>59</sup>. GRECO recommends establishing a more robust set of rules on gifts and other benefits for persons entrusted with top executive functions, which would provide clear reporting lines and the publicity of information, and appropriate guidance to ensure all forms of benefits are adequately dealt with.

#### *Misuse of public resources*

86. Embezzlement is addressed in the General Penal Code (Article 247), with regard to both the public and private sector. It is punished by imprisonment of up to six years. Other articles in the Penal Code related to the abuse of office by a public official (Articles 128 – 139) are also relevant in this respect. As indicated earlier, the Ministerial Code of Conduct requires from Ministers to make “a clear distinction” between political activities, in particular connected to elections, and ministerial activities (Article 5). The GET very much welcomes this requirement, but to be an effective tool for the prevention of the misuse of administrative and other State resources in electoral periods, the Code would need to spell out more explicitly, and give examples of the various implications of such a provision, and its enforceability should be ensured. A recommendation was made to this effect (see paragraph 47).

#### *Misuse of confidential information*

87. The Government Employees Act and the General Penal Code contain rules on confidentiality and regulate the misuse of confidential information.

88. Article 18 in the Government Employees Act no.70/1996 stipulates the following: “Each employee is obliged to observe confidentiality with regard to matters of which he gains knowledge in his work and shall be regarded as confidential according to law, the instructions of superiors or by the nature of the matter. The obligation of confidentiality remains even if the employee concerned leaves his job.” MPs are subject to confidentiality pursuant to Article 52 of the Standing Orders of Althingi.

89. The revealing of confidential (secret) information constitutes a criminal offence and is punished by up to one year imprisonment (Article 136 in the General Penal Code). The misuse of confidential information for obtaining unlawful gain (Article 136) and destroying, concealing, maltreating, omitting messages, letters or consignments without permission (Article 137) are subject to imprisonment for up to three years. These provisions apply to the persons who have left official service and abuse the knowledge obtained in their positions which is to be kept secret.

90. Finally codes of conduct also regulate the matter in general terms. The Code for Staff of Government Offices requires “any necessary confidentiality” in the working methods and treatment of information, including outside work in relation to social media. The Code of Conduct for Althingi requires that its members show discretion in the use of information and do not misuse confidential information for personal gain.

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<sup>59</sup> Fourth Round GRECO Evaluation Report on Iceland, Paragraph 55, p. 17

### *Post-employment restrictions*

91. The rules on registering interests for Parliamentarians, that apply to Ministers, stipulate the registration of any contracts or agreements with former or future employers which are of financial nature. It is not required to register financial amounts or estimated value of the agreement. However, the nature of the contract has to be registered and the name of the employer.

92. There are no rules for situations where public officials move to the private sector, where the particular information/knowledge from the former position may be used to the disadvantage of the public interest etc. (so-called "revolving doors"). The GET notes that this area may be of growing importance as the top ranking officials move with ease in and out of position in State institutions and then join the private sector<sup>60</sup>. There have been some improvements, in the aftermath of the financial crisis, rules were passed in April 2012 to increase transparency in the recruitment of central government officials and rules on mobility within the civil service were elaborated.

93. Overall, however the issue of revolving doors remains to be addressed in order to limit risks that PTEFs be subject to undue influences when carrying out their duties, for instance, where prospects of a future employment in the private sector come into play. Usually, such matters are addressed through cooling-off periods, exit interviews, post-mandate extension of declaratory obligations, specific declaratory duties with regard to employment offers, increased supervision and so on. GRECO recommends that rules be introduced to deal with employment after the termination of functions of persons entrusted with top executive functions.

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

#### *Declaration requirements*

94. As previously reported the Code of Conduct for Ministers addresses the obligation to declare financial and other interests in a form provided by Althingi and according to Althingi's rules on registering interests. Ministers who are not MPs are also subject to the declaration requirement. Ministers are obliged to register information on interests within a month from the start of a newly elected parliament and update it on a regular basis. Declarations on the interests of Ministers are made public on the website of Althingi. The public shall have access to the information on the website of Althingi within 20 days after the deadline for registration.

95. As for Permanent Secretaries, no formal register is kept. However, according to the Code of Conduct for the Staff of Government Offices in Iceland, staff members shall inform their immediate superior, of any possible conflict of interests.

96. The registration system for ministers covers current interests and in some cases, future interests. No registration of past interests is required. The obligation to declare does not include business contracts with state authorities nor financial interests involving spouse or close relatives / family members of PTEFs.

97. Althingi's rules on registering interests require the mandatory registration of the following (since November 2011):

- a. sources of income;
- b. debts which are written-off (but not debts);
- c. changes of loan agreements (but not loans);

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<sup>60</sup> The Fourth Round Evaluation Report referred to the case of the former Minister of Commerce and Industry (1995 - 1999) who became Governor of the Central Bank (2000-2002) and resigned before the expiry of his 5-year term in order to join an investment group. The investment group he joined was a major investor in one of the banks that was privatised in 2002 and then collapsed in 2008.

- d. financial support/gifts/support from domestic and foreign legal persons and individuals exceeding 50.000 ISK/390 € per year and related to duties (including the donor's identity, the reason for the gift, its nature and date where it was given);
- e. holding of posts and functions or engagement in outside activities (e.g. consultancy), whether in the private or public sector, whether remunerated or not (incl. agreements with former or prospective employers);
- f. offers of remunerated or non-remunerated activities (including employment, consultancies, etc.);
- g. agreements concerning such future activities;
- h. assets (property and company ownership in excess of one third or one quarter of the total value or participation, respectively; savings exceeding specific thresholds);
- i. trips in Iceland or abroad linked to parliamentary duties where expenses are not paid in full by the State, by a political party or the MP personally;
- j. any other interest or relationship leading or likely to lead to a conflict of interest.

98. The GET discussed at length the lessons that could be learnt from alleged malpractice observed in recent years<sup>61</sup>, e.g. a government member transferring assets to the spouse in order to keep assets out of reach of disclosure requirements, use of off-shore arrangements for reasons unconnected to business operations, government members using insider-information to increase or preserve financial interests, or taking loans to take a control share in a business group etc<sup>62</sup>. Other PTEFs, such as a permanent secretary, were also allegedly involved in such practices. The declaratory obligations thus clearly should extend to them as well. During the on-site discussions, reference was made to other senior officials who are exposed to risks of malpractice which could be limited if they too were required to file declarations of assets and interests. Political advisors (who are considered as PTEFs for the purposes of the present report) appear to be a specific source of concerns because their duties are not always clearly defined, but directors of administration, for instance, were also mentioned. These officials also enjoy broad discretion in decision-making and the use of public resources. The Icelandic authorities may wish to bear in mind the need to further expand disclosure obligations, when the legislation is reviewed.

99. The GET recalls that the Fourth Round Evaluation Report had addressed two recommendations to Iceland in order to significantly improve the scope of declaratory obligations and the supervision in respect of MPs (given the scope of the previous Round, which addressed the situation of MPs). To date, Iceland has not implemented these recommendations even partly, which are also of particular relevance for the situation of PTEFs, given the above. The GET heard that there was still strong resistance to extend the scope of disclosure duties to include information on other family members (spouses and children).

100. The GET also heard from the Personal Data Protection Agency, that the debate on such an extension sometimes points to the wrong problems and that in particular, it would not be a fundamental issue of data protection or private law provided the legislation clearly establishes the disclosure of such information. As for the scope of reporting duties, GRECO therefore recommends that the existing registration system be further developed for persons entrusted with top executive functions, in particular (i) by including quantitative data of the financial assets/contributions received by such persons and by providing details of financial liabilities; and (ii) by considering widening the scope of asset declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public).

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<sup>61</sup> See for instance <https://www.theguardian.com/world/2017/oct/06/iceland-pm-sold-bank-assets-hours-before-financial-crash-leaks-show>; <https://grapevine.is/news/2011/04/07/former-government-official-gets-two-years-for-insider-trading/>

<sup>62</sup> See also the various articles and reports referred to in previous footnotes



## *Review mechanisms*

101. The office of Althingi supervises the registration of interest for MPs and Ministers. The Secretariat of the Althingi is responsible for publishing asset declarations on the parliament's website. Although the declarations are mandatory, they are (still) made under the sole responsibility of the subjected official. As recalled above, Iceland has not implemented up until now the recommendations from the Fourth Round Evaluation on improving the declaration system and its supervision.

102. The GET notes that there has been no case of enforcement of the rules on declaratory obligations in the last five years, although it was confirmed that the information declared by ministers at the time of the visit were not always complete and reliable. The GET is concerned that any monitoring in that area is reportedly the sole responsibility of Parliament and that the Prime Minister's Office is not involved, although the latter has certain duties with regard to the effectiveness of the general integrity standards (that is, at least those enshrined in the Ministerial Code of Conduct). Some interlocutors recalled that the information released in the context of the Panama Papers contained references to a Prime Minister, a Minister of Finance, the Minister then responsible for internal affairs and possibly other Icelandic senior officials.

103. It would appear that no case had been opened or let alone that targeted reminders and other measures had been taken in respect of specific PTEFs. It was acknowledged that journalists do send tips in respect of possible inaccuracies or missing information but for the time being, the main action which was signalled to the GET is to provide general information to newly elected MPs and to send systematic reminders to all every six months. As pointed out in respect of the previous recommendation above, Iceland to date has taken no measures to improve the declaratory system and its supervision, which was assessed in the Fourth Evaluation Round as regards MPs. The GET wishes to reiterate the importance of such a mechanism for the preservation of the transparency and integrity of officials who play a leading role in the performance of core State functions. In light of these considerations, and bearing in mind the conclusions contained in the Fourth Round Evaluation Report, GRECO recommends strengthening the credibility of the registration system for declarations of financial interests in respect of persons exercising top executive functions, by ensuring greater adherence to the rules through a system of monitoring, providing adequate advice and guidance, and implementing a mechanism of sanction when requirements are not observed. As GRECO has already pointed out, in setting in place the recommended monitoring and sanctioning mechanisms due attention must be paid to their guarantees of independence and effectiveness.

## Accountability and enforcement mechanisms

### *Criminal proceedings and immunities*

104. Members of Government enjoy immunity and certain procedural privileges. Since they are usually appointed from among the MPs, they also continue to be protected for their opinions and statements (non-responsibility), and they enjoy inviolability for criminal and other actions.<sup>63</sup>

105. The liability of a member of government for acts committed in an official capacity are to be adjudicated by a special, *ad hoc* tribunal, namely the Icelandic Impeachment Court (*Landsdómur*) according to article 14 of the Constitution (the organisation of the Court is determined in the Court of Impeachment Act). A special law, the Ministerial Responsibility Act, defines certain specific offenses, for instance intentional or gross negligence, not complying with the constitutional procedures, misuse of power and so on, may lead to loss of office, fines or up to two years'

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<sup>63</sup> According to Article 51 of the Constitution, Ministers are entitled to a seat in the Althing. It has therefore been held in legal theory that a Minister of the Government enjoys the same protection as Members of the Parliament.

imprisonment (Section 11). Ministers also remain liable under the provisions of the Penal Code on breaches in public office (Section 1) and “if a Minister has also been in breach of the (...) Penal Code his penalty shall be stated collectively” (Section 11). This mechanism has so far been used only once, in connection with the mismanagement of the financial crisis which emerged in 2008<sup>64</sup>. Out of the four persons accused, one (a former Prime Minister) was found guilty under the Ministerial responsibility Act but he was not sentenced to any punishment.

106. The conditions for the initiation of proceedings against a minister (by a parliamentary decision) and the Court's composition (which involves, *inter alia*, a majority of lay judges designated by Parliament) have been subsequently challenged – unsuccessfully - before the European Court of Human Rights<sup>65</sup>. The very existence of this special procedure is a source of on-going discussion in Iceland. Its abolition has been envisaged in the context of the recurring debate on a constitutional review, the President recently referring to it as something “ancient and out-dated”.<sup>66</sup>

107. The GET discussed the criminal justice response to allegations concerning PTEFs, be it in relation to the conduct in Iceland or in relation to the financial/business activity abroad (for instance in relation to the revelations through the Panama Papers in April 2016). Prosecutors confirmed that with the exception of one case against a permanent secretary of the Ministry of Finance, who got a final sentence of two years' imprisonment for insider dealing, they had never dealt with other senior officials such as members of government. Various interlocutors, also in State agencies, pointed to elements which are indicative of a lack of willingness (prosecutor closing rapidly a file, Central Bank or financial intelligence unit remaining un-reactive), the lack of sufficient independence and reluctance of criminal justice bodies to open cases which could present a risk for one's personal career, close links between family business interests and politics and State property/interests. It was pointed out that most cases had ended with the mere resignation of the government member concerned when public pressure had become untenable. During discussions, it was sometimes referred to a public perception of impunity enjoyed by ministers, although the situation is reportedly improving – a few years ago, a member of government would not even have resigned.

108. The GET notes that the special “impeachment” procedure (initiated by the Parliament and involving a special Court) co-exists with the general criminal proceedings (initiated by prosecutors and involving the ordinary courts). This was sometimes described during interviews as a system of dual avenue which both can be used to deal with corruption-related acts. The GET was concerned that insufficient delineation between the two proceedings could have a dissuasive effect for prosecutors and ultimately the effectiveness of general proceedings before courts. Section 11 of the Ministerial Accountability Act can be read as implying that the jurisdiction of the Court of Impeachment is primarily determined by the existence of one of the political offences defined under the above Act, and that its jurisdiction would extend only also incidentally to a possible corruption-related offence of the Criminal Code.

109. If this interpretation is correct, prosecutors retain the primary role in possible proceedings against a minister and they should take a leading role. The GET recalls that one of the Venice Commission's conclusions on the subject of ministerial liability<sup>67</sup> is that “the ability (...) to distinguish political and criminal responsibility for government ministers (past and present) is a sign of the level of democratic well-functioning”. The GET noted during the on-site discussions that there can be doubts as to which procedure to apply in practice.

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<sup>64</sup> On April 17, 2012, the Impeachment Court acquitted the suspect of three out of four charges, but found him guilty for not organising a governmental response to the degrading situation which eventually led to the economic collapse. He received no punishment.

<sup>65</sup> *Haarde v. Iceland*, judgment of 23 December 2017

<sup>66</sup> <http://icelandreview.com/news/2017/03/07/president-critical-high-court>

<sup>67</sup> “Report on the relationship between political and criminal ministerial responsibility”, March 2013; see [www.venice.coe.int/t2Fwebforms%2Fdocuments%2Fdefault.aspx%3Fpdf%3FDCDL-AD\(2013\)001-e&usg=AOvVaw0j6eKNQyNB9JyH-WBIXCs](http://www.venice.coe.int/t2Fwebforms%2Fdocuments%2Fdefault.aspx%3Fpdf%3FDCDL-AD(2013)001-e&usg=AOvVaw0j6eKNQyNB9JyH-WBIXCs)

110. The GET considers that from the perspective of the fight against corruption, and looking at the situation in Icelandic practice, it would be desirable to clarify the procedure for initiating criminal proceedings against a minister suspected of a criminal offence, including corruption. Of course, the abolition of the special impeachment procedure – which is often referred to as an anachronism in Iceland and was criticised during the on-site interviews – would remove any unnecessary doubts and would clearly identify the main role of the (regular) criminal justice bodies.

#### *Non-criminal enforcement mechanisms*

111. According to the Act on Government Offices of Iceland, the Prime Minister's Office is responsible for the interpretation of the Codes of Conduct, providing training in this respect and ensuring that they are effective. Pursuant to the Ministerial Code of Conduct a Minister may seek advice from the Prime Minister's Office in case of doubt.

112. The Althingi Ombudsman monitors the administration of the State institutions. The Ombudsman shall ensure that the principle of equality is upheld in public administration and that such administration is otherwise conducted in conformity with the law, good administrative practice, and Codes of Ethics pursuant to the Act on the Government Offices of Iceland and Government Employees Act. The opinions of the Ombudsman are not binding, but they are generally followed in practice. Moreover the Ombudsman can alert the State Prosecutor, Althingi or other authorities of misconduct by PTEFs.

113. The GET regrets that the new role of the Prime Minister's Office on integrity-related subject matters has not become more robust and pro-active, and that so far its approach has been rather timid. It is also true that the team responsible in the Prime Minister's Office is rather small. The GET is convinced that more can and needs to be done, especially in conjunction with the implementation of the recommendations on a strategy to improve integrity and the management of conflicts of interests (see paragraph 37), on strengthening the effectiveness of the rules of conduct (see paragraph 47) as well as on increasing the awareness raising efforts (see paragraph 56).

## V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

### Organisation and accountability of selected law enforcement authorities

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

114. Under the current distribution of ministerial portfolio, law enforcement institutions (including the Icelandic Coast Guard (ICG)) and the prosecution are under the authority of the Ministry of Justice, except the Directorate of Customs which falls under the Ministry of Finance and Economic Affairs. The current report focuses on the National Police and the ICG. The relevant legal framework includes in particular the Police Act no. 90/1996, the Act on the Coast Guard and the Act on Criminal Procedure no. 88/2008. Implementing government rulings and regulations address in further details specific police activities such as investigative means, the overall organisation and administration and so on.

115. The police force in Iceland (a country with a population of around 336 000) is relatively small, with a staff of 646 police officers, including 545 men and 101 women (2016 figures). It appears that due to a lack of funding, the number of police officers decreased by 10% between 2000 and 2014.

116. The Minister of Justice appoints the top management, in the case of the police force for instance, these are the National Commissioner and Deputy National Commissioner, as well as the district police commissioners and their deputies. The National Commissioner has overall responsibility for the general administrative supervision, policy matters and central support services of the Police and the Minister is the supreme head of the police and the National Commissioner manages police affairs on behalf of the minister. Nine District Police Commissioners are responsible for the daily police operations in each of the districts<sup>68</sup>

117. On 1 February 2016 Iceland had a total of 646 police officers (706 when counting also temporary officers and district policemen)<sup>69</sup>. The police carries out investigations of offences under the direction of a district prosecutor or a police commissioner. The police commissioners, in addition to the District Prosecutor, also have prosecutorial powers and when exercising these, they are under the supervision of the Director of Public Prosecutions (DPP).

118. The National Commissioner has responsibility for the central services such as the Special Interventions Unit (SIU) (which provides support to the district police, as necessary), the National Security Unit (responsible for analysing organised crime and terrorism-related risks), the 24/7 police telecommunication centre, the International Department (responsible for liaison with Interpol, Europol and the Baltic Sea cooperation), Civil Protection and the general Support Unit (police escorts). Some of the regional structures have a dedicated role, for instance the Reykjavik Metropolitan Police, which is the largest in terms of manpower and equipment, provides technical investigative assistance countrywide, and the Suðurnes district Police which is, similarly, a support structure for border control, as approximately 95% of border crossings take place through the Keflavik Airport.

119. The ICG is a civilian law enforcement agency. Besides policing seas and rescue at sea, its tasks include the fight against illegal migration and illegal drug tracking, fisheries control, marine pollution. It carries out border control in connection with the Schengen agreement, patrolling and inspection of vessels at sea and national security operations, and its personnel is thus armed. The total staff is approximately 190. Joint operations are carried out with the Police.

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<sup>68</sup> For further information on the administrative structure, see:

<http://www.lmi.is/wp-content/uploads/2015/05/logreglan.pdf>

<sup>69</sup> For the composition see <http://www.logreglan.is/wp-content/uploads/2016/05/The-number-of-Police-officers-and-other-staff-in-Iceland-2016.pdf> and for ranks see <http://www.logreglan.is/logreglan/um-logregluna/starfsstig-innan-logreglunnar/>

120. The on-site discussions and various media reports have pointed to a severe shortage of means in the Police in terms of staff, equipment and overall funding, sometimes prompting the police to express dissatisfaction in public<sup>70</sup>, although policing activities would have increased and become more complex, notably due to the economic growth and expanding tourism. The GET was told that according to certain studies, Iceland needed about 900 police officers (the total staff is in the range of 700). During the on-site discussions, reference was also made to low basic salaries (especially in comparison to the overall economic context) and insufficient salary progression. This has reportedly lead staff to seek extra shifts and extended working hours, which would in the end, represent a substantial part of a police officer's income. The GET was told that the working conditions in the police may have impacted negatively on the recruitment of new officers at certain periods<sup>71</sup>. It would appear that the ICG has not suffered as much<sup>72</sup>.

121. The GET recalls that the material working conditions and income of staff can have an impact on the level of risks and that insufficient structural resources can impede the implementation of integrity policies (for instance the generalisation of so-called "4-eyes" based routines and procedures, increased training efforts etc.). Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials indicates that public officials "should have ... an appropriate legal and material environment in order to carry out their tasks effectively". The GET was informed after the visit that efforts have been made in recent years to increase the budget of the police (8 to 12% each year) and that the Ministry is working on a policy document which is meant to review by the end of 2018 the variety of police tasks across the country and the corresponding budgets. Such efforts are timely. Therefore, and bearing also in mind the needs of gender balance, GRECO recommends ensuring that the resources allocated to the Icelandic police are sufficient enough to carry out their work effectively, particularly for the actual implementation of integrity-related policies.

#### *Access to information, confidential information and data protection*

122. As a starting point, the Information Act regulates access to information held by public authorities including the police and IBG, with the exception of information on investigations and prosecutions, for instance. The police responds to media requests on individual cases and overall police issues. The National Police Commissioner has issued detailed guidelines on how to communicate with the media<sup>73</sup>. An interagency working group monitors the implementation of the guidelines and is currently reviewing them. Social media are also increasingly used. As in the case of PTEF, the working documents are not public. The criteria for working documents are defined internally.

123. The use of personal information is addressed in the Regulation on the automated processing of personal information by the police no. 322/2001 (last revised in 2004)<sup>74</sup>; any registered person has the right to be informed, within one month after a written request, of the personal data processed

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<sup>70</sup> See <https://grapevine.is/news/2017/05/15/poor-police-cant-afford-new-uniforms/>  
<https://grapevine.is/news/2015/10/15/police-deliberately-not-fining-people/>  
<https://grapevine.is/news/2015/10/13/cops-may-call-in-sick-again-as-collective-bargaining-manoeuvre/>  
<https://grapevine.is/news/2015/09/12/cops-make-traffic-stops-to-improve-collective-bargaining-terms/>

The police was deprived of the right to strike in 1986 and it has thus used actions such as street marches, collective sick leave and calling for fine-free days for traffic offences.

<sup>71</sup>In the years 2012-2014, the ratio applicants / posts to be filled was in the range of 2 to 4 approximately; in 2015, there were 158 applicants for approximately 20 posts.

<sup>72</sup> It was affected by other factors, such as the indirect financial impact on operating costs of large fluctuations in the exchange rate of the Icelandic Krona after the financial crash, combined with the involvement in foreign projects. The NAO underlined that while the involvement in „foreign projects“ is desirable, this should not hinder the ICG from conducting its statutory activities; it called both for an increased oversight over these projects and for providing adequate funding to the ICG.

<sup>73</sup> See <https://www.press.is/is/um-felagid/utgefid-efni/frettir/leidhbeinandi-reglur-um-samskipti-fjoelmidhla-og-loegreglu>

<sup>74</sup> See <https://eng.innanrikisraduneyti.is/laws-and-regulations/english/police/nr/1042>

by the police concerning him/her (including the type data, their use and purpose of processing). In the event recorded personal information is no longer necessary for police work, it should be deleted. The right to access police records (and to copy data) is limited to a person who is a party to a procedure.

124. Pursuant to the Police Act, the Icelandic Coast Guard Act and the Government Employees Act, the confidentiality requirement regarding work related matters continues to apply to private life and after the termination of employment. Moreover the Code of Conduct for the Police states that police material or data may not be provided to those who are not entitled to that kind of information, either inside or outside the police. The Code for Staff of Government Offices requires “any necessary confidentiality” in working methods and treatment of information, including outside work and when using the social media.

125. The revealing of confidential (secret) information constitutes a criminal offence and is punished by up to one year imprisonment (Article 136 in the Criminal Code). The misuse of confidential information for obtaining unlawful gain (Article 136) and destroying, concealing, maltreating, omitting messages, letters or consignments without permission (Article 137) are subject to imprisonment for up to three years. These provisions can be applied in relation to a person who has left the service. The National Police Commissioner is responsible for the management of police databases (on recorded crimes and the general human resource management). Access to databases is restricted and protected (logs are recorded, special secured programmes are used etc.). District Commissioners are responsible for keeping the information in the police cases up to date. The IT unit conducts random checks on the correct and legitimate use of databases.

126. The Government’s dedicated website where the public can access information about individual payments by ministries for goods and services<sup>75</sup> is expected to cover the police soon.

127. The GET welcomes the detailed guidelines regulating the communication with the media, and the existence of rules and mechanisms to prevent the misuse of insider knowledge and information.

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

128. Law enforcement agencies in Iceland enjoy a high level of public trust. In the latest Gallup survey, published in February 2017, the Icelandic Coast Guard (ICG) was the most trusted institution, with 92% confidence rate. The police came second, with 85% approval score. In the past 10 years the lowest rating for the confidence in the police was 74%. In comparison the Director of Public Prosecutions enjoyed a 50% trust rating, while in the judiciary, the figure was 43%<sup>76</sup>.

#### *Gender equality*

129. Women are traditionally under-represented in Icelandic law enforcement bodies. For instance, in the ICG where the total staff is approximately 190, about 12% are women. Efforts are being made to improve the situation; for instance, in 2017 and 2018 more than 50% of new recruits in the police were women.

130. In the context of the Act on Equal Status and Equal Rights of Women and Men no. 10/2008, the National Police Commissioner and district commissioners have appointed special representatives on equal rights and the National Police Commissioner has established a special council of outside experts to address direct and indirect discrimination, harassment and gender-based violence within

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<sup>75</sup> See <http://opnirreikningar.is/>

<sup>76</sup> See the survey at <https://www.gallup.is/frettir/traust-til-stofnana-haekkar-milli-ara/>

the police<sup>77</sup>. The National Commissioner has adopted a policy and an action plan as well as special guidelines on gender equality<sup>78</sup>. The last one, adopted in 2016, is currently under revision.

131. The National Commissioner produced in 2014 a research study on the work culture and gender relations within the police force in cooperation with the University of Iceland. The study confirmed that women remain underrepresented in the police, although their share is increasing in recent years (12.7% in 2014, nearly 16% in 2016). The share of women of the police staff as a whole was higher, at 25.6% in 2016. The police commissioner of the Metropolitan Police, the largest police force, as well as three other police commissioners are women (thus, nearly half of district commissioners are women). The study also looked into such phenomena as sexual and other forms of harassment within the police; it was found that almost 31% of women had experienced sexual harassment (compared to only 4% of male officers).

132. The GET notes that, despite commendable efforts in terms of policy and research – which could inspire other countries – women remain largely underrepresented within law enforcement bodies and their management (except in top management).

#### *Trade unions and professional organisations*

133. The National Police Federation of Iceland<sup>79</sup>, established in 1968, has over 700 members, including retired officers. It provided input to new legislation on police education (which is now at the university level) and participated in the setting-up of the independent monitoring committee in the police. The employees of the Icelandic Coast Guard belong to 14 different trade unions, as the agency performs multiple functions.

#### Anti-corruption and integrity policy

##### *Anti-corruption and integrity policy, mission statements and ethical principles*

134. As yet, there is no dedicated corruption prevention policy within law enforcement. The Government is finalising a policy for the police, which focuses on its role in public security, preventing and fighting crimes; it would also address to some extent integrity-related matters (education, data protection, internal inspections). Overall, the measures to prevent corruption and promote integrity within law enforcement are taken on the basis of various laws on public administration and management, including the Police Act and the General Penal Code. The codes of conduct are also part of the reference material.

135. The Police Act contains the objectives and principles for the police work. Police officials are expected to “demonstrate alertness”; “have a clear understanding of their duties and the responsibility involved”; “perform their work diligently and conscientiously, at all times observing complete impartiality and fairness”. The police oath (Article 29) also requires to work diligently and conscientiously in all respects and according to the best of one’s ability.

136. The GET encourages the authorities to adopt, as planned, integrity policy documents for the police and other law enforcement bodies, with adequate emphasis on the issue of ethics and prevention of corruption. The GET hopes that the police policy document will be finalised soon and that integrity will be a strategic priority.

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<sup>77</sup> See <http://www.logreglan.is/wp-content/uploads/2017/04/Verklagsreglur-fagr%C3%A1%C3%B0s-%C3%B6greglunnar.pdf>; <http://www.logreglan.is/wp-content/uploads/2017/04/Verklagsreglur-fagráðs-lögreglunnar.pdf>

<sup>78</sup> See <http://www.logreglan.is/wp-content/uploads/2014/12/jafnr%C3%A9ttis%C3%A1%C3%A6tlun-l%C3%B6greglunnar-j%C3%BAn%C3%AD-2012.pdf>

<sup>79</sup> [http://www.logreglumenn.is/index.php?option=com\\_content&view=article&id=105](http://www.logreglumenn.is/index.php?option=com_content&view=article&id=105)

137. A Code of Conduct for the police<sup>80</sup> was issued by the National Police Commissioner in 2003 and amended last in 2016. It drew inspiration from the European Code of Police Ethics. The Code regulates the handling of confidential information and various other requirements related to the professional conduct in daily work and in connection with hierarchical orders and colleagues, confidentiality etc. Some of the principles deal with corruption, gifts, conflicts of interest and bribery (art. 11, 13, 14): the officer “shall act against corruption within the police and shall be protected if s/he informs the police commissioner thereof”, “police officers should avoid non-police assignments and other jobs that may lead to conflicts of interest”, they “shall not accept gifts in connection with their work” and shall notify the commissioner if they are offered bribes, they shall not act in a police investigation involving close friends or themselves. The Code does not provide for sanctions but the authorities pointed out that usually, codes of ethics or conduct must be read in conjunction with the Police Act, as well as with the Government Employees Act No. 70/1996 which deals with disciplinary aspects concerning all Icelandic civil servants<sup>81</sup>. The Icelandic Coast Guard (ICG) has its own Code of Conduct for employees, published in 2006 which is quite similar to the above Code as regards the content and spirit. The Code of Conduct for Staff in the Government Offices of Iceland also applies to law enforcement staff.

138. The codes are distributed to new staff and also published on the respective websites of the law enforcement agencies. They are also used during training activities.

139. The GET welcomes the existence of specific codes for law enforcement personnel. That said, in the absence of further guidance, it may be unnecessarily difficult for an officer to translate into daily practice some of the requirements. For instance, the Code for the Police refers to bribery and to corruption but there are no definitions, guidelines or examples on what these concepts actually encompass. Conflicts of interest are addressed but the implications are not always clear enough (what to do in certain situations, e.g. withdrawing from a decision or disclosing a situation) and they are limited to the context of accessory activities and police investigations. And since the Code applies to all categories of police staff including management, conflicts of interest in relation to recruitment and procurement, for instance, would need to be addressed as well. Likewise, there are a number of situations and concepts used in the rules on gifts contained in the Code and other regulatory instruments (see the specific section on gifts hereinafter) which would deserve to be illustrated with concrete examples and explanations, when the rules are reviewed and their consistency is increased.

140. Also, further provisions would have been timely in the context of Iceland, in particular on the need for political neutrality both in daily work and human resource management. The GET was informed that the Police Force has reportedly a long tradition of links to a particular political party, and that party affiliation and political considerations can occasionally interfere.

141. Last but not least, there are no enforcement mechanisms which would clearly apply in case of violations of the codes of conduct. They are silent as to whether breaches would/could be examined by the disciplinary committee established under the Government Employees Act No. 70/1996 mentioned earlier (irrespective of whether the police officer enjoys the status of civil servants) and to what kind of disciplinary measures this could lead. The GET was told that some overall competence regarding the enforcement of the Police Code is assigned to the National Commissioner of the Police, but there is no evidence that this is supported by specific actions, units or regulations. GRECO has consistently insisted on the need for rules of conduct to be enforceable, when the need arises and Recommendation Rec(2001)10 of the Committee of Ministers to member

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<sup>80</sup> <http://www.logreglan.is/wp-content/uploads/2016/02/Si%C3%B0areglur-I%C3%B6greglunnar.pdf>

<sup>81</sup> The Government Employees Act No. 70/1996 provides for a disciplinary committee, established to investigate disciplinary cases; it consists of three persons with specialised knowledge of public administration, who are appointed by the Minister of Finance for a four-year term (Article 27).



states on the European Code of Police Ethics clearly requires that such codes shall be overseen by appropriate bodies. This also supposes that measures can be taken to address situations where an officer does not comply with the requirements of the Code. As for the possibility to receive advice, the GET was also told that, in case of ethical dilemma, the step normally taken would be to turn to the line manager or close colleagues. Iceland needs to establish or designate establishing or designating a specialist body or person(s), who are not in daily contact with law enforcement officers, to provide individual officers with external, neutral confidential advice on integrity matters (so-called "confidential counselling").

142. Consequently, GRECO recommends that (i) the Codes of Conduct for the Police and the Icelandic Coast Guard be complemented to address more broadly conflicts of interest and political activities, and so as to offer practical guidance through explanatory comments and practical examples on all corruption-related subjects, as well as confidential counselling and (ii) a credible mechanism of supervision and sanctions be clearly provided for.

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

143. The authorities indicated that the legislation and rules, including the codes of conduct, provide a framework for risk management.

144. Key groups of law enforcement officials, such as border police and custom officials, have been identified to raise awareness on integrity and the importance of anti-corruption measures, although no formal procedure has been adopted to classify certain groups as corruption prone. Some positions within law enforcement agencies (ex. within airport zones) call for special background checks, in addition to general background checks, based on provisions in the Police Act.

145. During the visit, reference was made to the absence of risk assessments since 2005, and to a variety of problematic situations which have occurred occasionally in relation for instance to political influence, revolving doors, conflicts of interest, procurement, insufficient awareness of integrity standards and so on. As pointed out earlier, the on-going shortage of resources in the police may have increased certain risks. The Icelandic authorities clearly need to adopt a more pro-active and ambitious approach when it comes to assessing risks which can affect the integrity in law enforcement agencies. A police unit could be entrusted with this task, provided it involves external participants from the non-governmental sector, academia and so on.

#### *Multiple eyes principle and other internal measures*

146. The police and the Icelandic Coast Guard are committed to using the multiple eyes principle. For example regulations on communication with informants, stipulates that two police officers shall communicate and meet with the informer and write a report on the communications. The Icelandic Coast Guard (ICG) uses the four eye principle during its operations, i.e. two or more employees are deployed for patrols or rescue missions and the division of tasks regarding procurement in particular, are regularly reviewed and adjusted to prevent fraud and error.

147. Although the value of the multiple eyes principle is recognised by the authorities, the GET understands that the implementation in practical terms is not a widespread policy or practice. As mentioned earlier, the shortage of resources and staff could be an obstacle. During interviews, reference was made to a multiplication of tasks, sometimes carried out by single officers or increasingly small teams due to the necessity of maintaining shifts. Iceland needs to bear this matter under review.

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

148. The use of informants by the Icelandic police is guided by regulation no. 516/2011 on special investigative methods. It specifies in particular how to handle communications between informants and the police (only upon approval of a senior officer, through qualified police officers, by ensuring the anonymity of the informer, allowing only for communications related to work, prohibiting sexual or emotional relations, communication and meetings with informants, "4-eyes" principle when writing a report and so on). It also addresses payments to informants, which must be authorised by the Commissioner only once the successful conclusion of the case and the instrumental role of the informant are substantiated. Informants were used in a recent court case in which a policeman in the Metropolitan Police of Reykjavík was convicted for revealing confidential information. The GET notes that for the time being, precautionary measures have not been taken with regard to other special investigative techniques, such as under-cover operations. Iceland may need to look into this matter, depending on the specificities of the national crime situation.

### *Advice, training and awareness*

149. Following the recruitment of police officers at university degree level since 2016, it is now the role of the University of Akureyri to provide initial training on ethics. The University will do so with a special course on professional ethics. The Code of Ethics for the Icelandic police was also published on-line, along with other Codes of Ethics. A special educational and training centre (Centre for Police Training and Professional Development) was also established under the responsibility of the National Commissioner of the Icelandic Police, to provide practical training of police students. The training curriculum includes ethical components<sup>82</sup>.

150. An inter-agency anti-corruption course for 90 participants, including police, prosecutors, tax inspectors/investigators, customs-officials was held in the Police Academy of Iceland in January 2016. The ICG is organising annually a training course on the Code of Conduct for ICG employees.

151. The GET notes that with the recent transfer of the training activities of police to a university, there is not as yet a re-designed programme, and thus no information available as to the courses / training modules which would deal with integrity and the prevention of corruption. It is important for Iceland to ensure that both new recruits and already serving officers be provided with adequate training and awareness-raising activities on relevant subject matters. GRECO recommends that regular training programmes and awareness raising measures on integrity and professional ethics be developed (covering conflicts of interest and other corruption prevention-related matters) for law enforcement bodies, taking into consideration their specificity, the variety of duties and their vulnerabilities. The GET wishes to stress that such training should be linked to the day-to-day work of police staff and be practice-oriented. Independent external experts may be involved in the development and conduct of such training events.

## Recruitment and career

### *Recruitment and appointment*

152. The legislative framework for recruitment and promotion is included in the Police Act no. 90/1996 and the Government Employees Act, No. 70/1996. The Police Act defines the different categories of police staff and the Government Employees Act, No. 70/1996 addresses appointments to positions in the police. Article 5 of the Police Act No. 90/1996 entrusts a competence assessment committee, operated by the National Commissioner of the Icelandic police with giving police commissioners (non-binding) opinions regarding the competence of applicants and appointments to positions. The Minister of Justice sets the rules for the competence assessment committee, covering

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<sup>82</sup> See <http://menntaseturlogreglu.is/>

qualification and appointment of its members as well as its tasks and working procedures. Icelandic laws, regulation and other measures also ensure equal chances for men and women.

153. According to the Police Act, the Minister of Justice appoints the National Commissioner, district police commissioners, Deputy National Commissioner and deputy commissioners of police for five years. Their mandate can be renewed by the Minister. Police commissioners appoint chief superintendents and superintendents well as other police officers for five years, after receiving the report of the competence assessment committee.

154. Vacant positions in the police must be advertised in the Legal Gazette. It shall, however, be permissible to make a permanent or temporary appointment to a post according to Paragraph 2, Article 23 or temporarily appoint due to absences according to the first sentence of Article 24 of the Government Employees Act (generally in case of illness or accidents or temporary leave. It is also possible to transfer a person between posts according to Article 36 of the same act without advertising the vacant post, but only if he/she is already a civil servant. This rule also only applies if a civil servant fulfils the legal criteria for the post. Similar rules apply for other government employees (official employee), but it is not possible to transfer official employee to a post of civil servant (Paragraph 2, Article 7 of the Government Employees Act and Article 21 of the Act on Government Offices of Iceland 115/2011).

155. All those appointed as police officers are required to have a degree from the Police College or a diploma in Police Science (Article 28 in the Police Act). The Police Act provides for compulsory background checks prior to employment with the police. According to the revised provisions of the Police Act (Article 38), the students shall meet specific conditions such a clean criminal record, appropriate behaviour, mental and physical health, completed "matriculation examination", language skills and physical stamina). Persons with criminal convictions cannot be appointed, temporarily or permanently, or employed to work for the police. Financial background checks are not performed as part of the above vetting process but earlier employers may be contacted prior to recruitment.

156. The recruitment of members of the Icelandic Coast Guard (ICG) does not follow a specific model, nor does it imply a mandatory training curriculum. The ad hoc recruitment, based on the needs of the ICG, presupposes that certain competencies, education and training have been acquired before applying, when these are needed. Some may benefit from in-service training within the ICG later on, which will qualify them to higher positions. The general standard set for ICG employees is to have a clean criminal record and to be physically and mentally fit for the position they are applying for.

157. Some positions within law enforcement agencies in Iceland imply special background checks, for example for those in airport zones. As previously reported, a special regulation addresses access authorisations and the protection of sensitive information. A screening process by the National Security Authority Agency (National Commissioner of the Icelandic Police) according to relevant regulations, is implemented for certain members of the police in addition to those employed in the Icelandic Coastguard. Overall, candidates for law enforcement jobs in Iceland are not required, as a rule, to pass special exams/ tests on ethical questions. There is no policy providing for periodic in-service vetting / security checks.

158. During the on-site visit, it was not clear to what extent the competence assessment committee provides added value. As its conclusions are advisory, its weight and say in the selection of police officials, is limited. Its role would deserve to be strengthened, for instance by requiring that any refusal to follow its decisions on nominations be (well) grounded. The recruitment process should also involve to a greater extent tests concerning the integrity and level of ethics of candidates. Such a policy should also be in place to periodically check serving officers, since their environment or personal situation can change and expose them to new risks.

159. Moreover the GET was informed that in practice, it is not uncommon that vacant posts are not announced and that candidates are too often just “hand-picked” by means of transfers (among those already hired as public officials or civil servants). Such decisions are directly in the hands of the Commissioner for district staff, and in the hands of the Minister as regards the police commissioners and their deputies. Whereas this may be acceptable for recruitment to certain support functions, the recruitment of police officers as such, including at management level, should follow a process which is transparent and fair, with proper assessments of applicants depending on the competencies expected for the future post. GRECO recommends that (i) the role of the competence assessment committee in the selection of candidates at all levels be strengthened and that integrity checks be included in the recruitment process and periodically used (ii) vacancies as a rule be advertised and filled following a selection process based on clear criteria.

#### *Performance evaluation and promotion to a higher rank, mobility, rotation*

160. Both Police and ICG employees are appraised every year and they benefit from individual development plans, which may encourage them to attend in-service training courses.

161. Regulation no. 1051/2006 on ranks within the police stipulates the minimum requirements for applicants in each of the posts and grades within the police, which are also reflected in the advertisement for vacant positions. The regulation indicates the criteria that are taken into account when making a decision on promoting an officer to a higher position or rank (including qualifications, seniority, duration of employment, professional knowledge, experience and gender). Appointments in the position of (chief) superintendent presuppose a prior working experience of five years as a police constable after graduating from police studies. Appointments to other higher ranks (inspector, sergeant or detective) require that the applicant has worked as a police constable for at least two years. The competent assessment committee of the police is a part of the process and it is mandatory to seek an opinion from the committee.

162. ICG employees are promoted upon specific criteria (working experience, education/training, performance) and usually through open tenders. By law some positions have to be publically advertised and both current employees and qualified people from outside the organisation can apply. This is usually done through the employment department but eventually the decision rests with the Director General.

163. The Government Employees Act and the Police Act also provide for a possibility of transfers without advertisement and there is no particular policy on mobility, transfers, rotation or secondment of officers, due to the small size of the agencies (with the exception of the Reykjavik Metropolitan Police), the occasional heterogeneity of salaries and other reasons.

164. Police representatives met during the on-site visit regretted that the current system was not taking sufficiently into account the individual merit through performance indicators and self-development efforts. Nor the general conduct in terms of personal integrity standards. The Icelandic authorities may wish to look into this matter.

#### *Suspension and dismissal from office*

165. Disciplinary measures are regulated by the Government Employees Act. A civil servant may be suspended if s/he does not comply with working hours, in case of negligence or disobeying instructions or prohibitions of the superior, in case of drunkenness and underperformance or where the behaviour at work or outside work has been inappropriate (Article 26). A suspension from duties should generally be notified in writing with an indication of the grounds. Where the suspension sanctions a deliberate breach of duties, the case should immediately be reviewed by a special committee of three persons. The authorities indicated that in two cases of possible corruption, police

officers have been temporarily suspended (one was found guilty by a district court and one went back to work after the investigation).

166. An employee shall be dismissed without prior notice if s/he has been deprived of his right to perform his job by a final court verdict. The contract ends immediately, unless the decision was appealed. An employee shall also be dismissed from his job without prior notice if s/he has confessed to an inappropriate behaviour which would entail such a consequence.

167. The GET notes that fixed-term contracts are renewable every five years unless the conduct of a police officer is sanctioned twice. The first sanction is a warning and the second time a warning leads to a release from office. The GET considers that this system of perpetual renewal of contracts, combined with risks of political influence in appointments, generates excessive vulnerabilities in the career of law enforcement officials. The current situation was criticised by a large majority of interlocutors who also saw a clear threat for the necessary operational independence of the police. It is thus clear that safeguards need to be introduced, in the form of decisional criteria and appeal possibilities. GRECO recommends that clear, fair and transparent criteria, based on merit, be introduced for the non-renewing of contracts for law enforcement officers as well as clear appeal possibilities to challenge such decisions.

#### *Salaries and benefits*

168. According to the Federation of Icelandic Police Officers, the basic gross annual salary of an Icelandic police official at the beginning of his/her career is 336.995 ISK / 2 624 € month a month or 4.043.940 ISK / 31 498 € annually. In addition, police officers are entitled to extra salaries for working shifts, overtime and other undefined salaries, amounting annually to 3.952.920 ISK / 30 804 €. A police official at the beginning of his/her career earns 7.996.860 ISK / 62 342 €. A Coast Guard at the beginning of his/her career earns 8.388.216 ISK / 67 694€ annually, including the gross annual salary of 5.966.256 ISK / 48 149€ and extra payments.

#### Conflicts of interest

169. The Police Act requires police employees to inform their police commissioners before engaging in another employment or business undertakings while serving on the force (Article 32). Within two weeks, the police officers are informed if these additional activities are compatible with the service and do not prevent from carrying out the police work properly. There are no other provisions on conflicts of interest in the Police Act. In addition, the Administrative Procedures Act in general addresses limitations of eligibility and grounds for disqualification for civil servants, including police officials. The Minister of Justice has not issued regulations on extra jobs or assignments. The draft regulation on extra jobs or assignments of police officers is currently under review.

170. As mentioned earlier, the codes of conduct for the Icelandic police and the ICG contain certain provisions in respect of conflicts of interest (in relation to an investigation or accessory activity).

171. The Icelandic National Audit Office (NAO)<sup>83</sup> has an important role in overseeing public agencies, including the police. In 2011 the NAO for example issued recommendations to law enforcement agencies on the importance of conducting procurement according to the Act on Public Procurement. The NAO issued these recommendations following cases where law enforcement agencies had done business with suppliers of police equipment who were in one way or another connected to (serving or former) law enforcement officials. In their latest comments, the Icelandic authorities pointed out that the National commissioner of the Icelandic police sought legal opinions from an independent private practicing law firm which concluded that the NAO was incorrect in their

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<sup>83</sup> See <https://rikisendurskodun.is/en/about-us/>

opinion. The legal opinion was made public and presented to the Althingi.<sup>84</sup> The NAO has also issued reports on other law enforcement and prosecutorial agencies such as the Special Prosecutor (succeeded by the District Prosecutor) and the Director of Public Prosecutions.

172. The National Commissioner is financially responsible for procurement and tenders. The procurement Act (Art. 20) establishes thresholds for the holding of public tenders concerning goods (approximately 50 000 euros at the time of the visit) as well as services and works (100 000 euros at the time of the visit). Article 14 of the procurement Act provides for equality, transparency and non-discrimination (jurisdiction) in public procurement.

173. The GET notes that both the Icelandic National Audit Office and representatives of the police admitted that it was not uncommon for companies linked with (former) police officers to supply equipment to the police. The GET was informed that instances had been observed where supplying companies were owned by police officers or close persons (spouses or relatives). The abnormal use of the same providers and sometimes overpriced services was also observed, together with the structuring of larger tenders (to remain below the value-threshold required for an open public tender. The GET is surprised to see that the findings of the NAO from 2011 have been challenged (successfully) by means of an ad-hoc audit performed by a private law firm. It is not for the GET to say who was right or wrong. But on the basis of the information it has collected during the visit, it is clear that the Icelandic authorities would need to keep this subject-matter under close scrutiny because of the various risk factors observed in connection with the absence of adequate framework for law enforcement agencies on accessory activities, post-employment restrictions, conflicts of interest and so on (discussed in the present report) and because the allegations heard by the GET were not limited to the findings in 2011.

#### Prohibition or restriction of certain activities

##### *Gifts and hospitality*

174. The Code of Conduct for the Icelandic Police, stipulates that policemen shall not accept gifts that are related to their work. They shall also inform the relevant police commissioner whenever someone offers them bribes to influence their work. The Code also stipulates that policemen shall combat any kind of corruption within the police force and report any offences of that kind to the relevant police commissioner.

175. It should also be noted that the National Commissioner issued on 29 November 1999 special rules on gifts and grants. Accordingly, district commissioners are to decide for their district whether gifts and other benefits (or items lent to the police) can be accepted or refused and subordinates shall refer for such purposes any such matter to their district commissioner. The district commissioners may not authorise gifts which are contingent / conditional and in case of doubt they may consult the National Commissioner. The latter must be informed of any gifts and donations that a commissioner would accept on behalf of the police (including the name of the donor and the grounds of the donation) and s/he shall keep that a register thereof.

176. The Code of Conduct for the Icelandic Coast Guard employees describes the rules for receiving gifts and the rules reflect what is standard for employees of the ICG. According to the Code of Conduct employees of the ICG shall not accept gifts that are related to their work. Exceptions can be made regarding birthday gifts or gifts related to special occasions, provided their value remains within reasonable limits (the concept is not defined). A supervisor must be consulted if there is any doubt that the employee should accept the gift in question.

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<sup>84</sup> <http://www.logreglan.is/gogn-rikislogreglustjora-vegna-rikisendurskodunar/>

177. The GET considers that the existing rules on gifts for the police and the ICG are not consistent and robust enough as they sometimes provide for a strict prohibition on all gifts and sometimes only where the gifts are made with the expectation of something in return (which is actually an act of bribery). They also leave excessive discretion to the commissioners (police) to put in place policies in that area and to solve individual cases, and to the supervisor (ICG) to decide on a case by case basis whether a gift is within “reasonable limits” and where gifts are acceptable or not. Such factors are likely to affect the effectiveness of the rules on gifts (as the on-site interviews sometimes showed), or to open the door to unnecessary difficulties. The GET considers that there should be a clear, consolidated policy within the police and within the ICG, which applies equally to all officers, with appropriate definitions and clarification on the various types of benefits which are acceptable or not. GRECO has already pointed out the importance of robust rules on gifts and other benefits (including hospitality, favours etc.) to prevent corruption and preserve the public perception of integrity, and to deal with situations before they become a criminal offence. The GET also recalls the previous comments made in respect of the codes of conduct and to the need for these to provide additional clarification and practical guidance, including concrete examples. GRECO recommends that robust sets of rules be elaborated for the Police and for the Icelandic Coast Guard concerning the acceptance of gifts, hospitality and other benefits.

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

178. Icelandic law enforcement officials are not forbidden to hold post/functions or engage in outside activities, whether in the private or public sector. However, such additional assignments have to be approved by police commissioners and be compatible with the duties of the employee (Article 32 of the Police Act).

179. In addition Article 20 in the Government Employees Act stipulates that before an employee intends, alongside the job, to take up a paid accessory activity, to join the management of an enterprise or to establish an enterprise, s/he must inform the employer of his/her intention, who shall then respond within two weeks whether the aforesaid job is (in)compatible or acceptable. A prohibition can be appealed with the minister responsible.

180. No prohibition or restrictions are currently in place to guard against inappropriate political activity or risks of nepotism (hiring relatives, for instance), nor regarding employment in certain posts/functions or engagement in other paid or unpaid activities after exercising a function within law enforcement authorities. The only restriction concerns the duty of confidentiality.

181. The frequent lack of specific safeguards mentioned above generates risks that parallel activities or private interests could interfere with the official duties in law enforcement. The present report already refers to specific issues occasionally observed in relation to political activities or affiliation. The GET also noted that the possibilities of links with the private sector are quite numerous in Iceland. In the first place this is due to a “liberal” approach which does not establish a prohibition in principle of parallel activities. During on-site interviews, reference was also made to significant movements to the private sector given the absence of “revolving doors” limitations and related cooling-off periods, for instance. The GET was informed about cases in which former officers of law enforcement agencies started to work in companies or do business linked to their previous job in the police. Integrity-related risks connected with this phenomenon have not been examined (employment coming as a reward, use of channels of communication with former police colleagues to the benefit of the new employer and so on). The GET wishes to recall that Recommendation no. R(2000) 10 on codes of conduct for public officials contains specific guidelines for leaving the public service (Article 26). In particular it specifies that “the public official should not take improper advantage of his or her public office to obtain the opportunity of employment outside the public service”. It is clear that Iceland needs to address these issues. GRECO recommends that a study be conducted on the practice of parallel or post-employment activities of law enforcement officers

and in the light of the results, to adopt a stricter framework which would limit risks of conflicts of interest.

#### *Misuse of public resources*

182. Embezzlement is addressed in the General Penal Code (Article 247), with regard to both the public and private sector. It is punished by imprisonment of up to six years.

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

183. There is no special system of declarations of assets and interests by LEO. However, the GET underlines the role of an asset disclosure system, which is not a mere obligation but is an opportunity to increase transparency and accountability in order to prevent conflicts of interest and possible corruption<sup>85</sup>. This would be particularly relevant in the context where accessory activities are broadly permitted. It is not uncommon that financial disclosure regimes in the police are restricted to senior posts, which are more exposed to risks in respect of their integrity and corruption, than lower echelons in the hierarchy. Such a system would certainly be pertinent for the position of the National Commissioner and District Commissioners. For the time being, there are other pressing priorities, including certain structural reforms concerning the general and daily internal oversight (see below).

#### Supervision and enforcement

##### *Internal oversight and control*

184. With the exception of the special external complaints mechanism which was established by law in 2016 (see below under “external oversight and control”), Iceland does not have a special unit, inspection body or persons responsible for preventing and investigating cases of internal corruption or other related misconduct within the police. The same goes for the Icelandic Border Guard (IBG).

185. At the same time, the Minister of Justice has an oversight role over the police and the Icelandic Coast Guard and s/he is also the hierarchical authority of the prosecutorial bodies. And although the police is meant to be under the administrative authority and supervision of the National Commissioner of the Police, the actual organisation of the police, does not follow a pyramidal police hierarchy but a horizontal logic: all regional police commissioners and the National Commissioner are equally answerable to the Minister of Justice. Thus, each of the nine district commissioners is managing independently the daily police operations in their respective districts, under the direct supervision of the Minister of Justice, and his/her direct authority when it comes to the employment relationship (see earlier comments under “suspension and dismissal”). During the on-site discussions, it was pointed out that the Minister also appoints the deputy commissioners and that the National Commissioner has reportedly a residual function of management in the police, which is largely limited to the central administrative services.

186. This leads to an important concentration of ministerial powers over the police since the Minister also decides on the number of police officers in each administrative area (in consultation with the National Commissioner of Police, upon proposals from the police commissioners concerned or the Director of the District Prosecutor).

187. As regards minor offences, the heads of police units are responsible for dealing with these, to investigate them and to take appropriate actions (including disciplinary sanctions and other measures). During the on-site interviews, doubts were expressed as to whether police officers who are working together with their colleagues on a daily basis have the necessary distance to remain

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<sup>85</sup> See also UNCAC Article 8 Paragraph 5



impartial and objective in making decisions on the conduct of their colleagues. Clearly, the creation or designation of a central unit to deal with such cases would be a better option. This would also allow to design a unified integrity policy, with input from such a unit. The existence of such a unit would also support the introduction of further measures such as an internal central reporting line, the elaboration of guidance documents and so on. The GET also wishes to stress the importance of public accountability in relation to the implementation of integrity policies; it is expected that the activity and results of such a body would be documented in a public report.

188. A necessary precondition for the above steps would be to reform the chain of command, by giving the National Police Commissioner a clear overall managerial and leading policy-making authority in theory and in practice, without parallel direct channels between the Minister and the regional commissioners. As mentioned earlier, the overarching structure of the police is horizontal with all commissioners being answerable directly to the Minister. The authorities referred after the visit to the Police Act no. 90/1996 in which the tasks of the National Commissioner are listed and his/her responsibility for administering police affairs on behalf of the Minister is clearly established: in the GET's view, these provisions should be made more effective in practice, with the Minister giving only overall orientations to the National Commissioner and the district commissioners dealing with the daily work. The GET wishes to recall Recommendation Rec(2001)10 of the Committee of Ministers to member states on the European Code of Police Ethics<sup>86</sup>. It points to the need of a "clear chain of command" to ensure proper accountability and the need to ensure effective and impartial procedures for complaints concerning the police. The GET also refers to the Recommendation Rec(2000)10 of the Committee of Ministers to member states on codes of conduct for public officials which puts emphasis on the public officials' necessary political neutrality and impartiality (Article 16). As it was mentioned earlier, the Icelandic police is perceived as exposed to high risks of political influence. During the interviews, the GET was provided with a number of concrete examples of the way political influence can affect daily work and the handling of integrity and disciplinary cases within a team. This situation clearly calls for improvements. Consequently, GRECO recommends that (i) a central unit be established or designated within the police structure to deal with internal supervision and inquiries, under the responsibility of the National Police Commissioner who should have in practice a clear leadership for internal policies, including on integrity, and risk management and supervision; and (ii) the chain of command be reviewed to ensure the effective implementation of such policies, without ministerial and political interference.

#### *External oversight and control*

189. The Director of Public Prosecutions (DPP) is the highest prosecutorial authority. It has an oversight role, notably regarding police investigations. The DPP can review decisions of district prosecutors but also police commissioners<sup>87</sup>, either to terminate investigations or to refrain from starting an investigation. Relevant parties in individual cases can also appeal to the DPP decisions on investigations taken by the District Prosecutor or police commissioners. District prosecutors oversee, direct and review police investigations from the very early stage (Regulation no. 660/2017). The Police Act stipulates that the District Prosecutor (the National Prosecuting Authority) is entrusted with investigating and prosecuting cases regarding police corruption (Article 35) and the police is obliged to assist the DPP in such cases. Investigations can be triggered by complaints by citizens, colleagues, even whistleblowers and media reports. Investigations are conducted according to available legislation – such as the Act on Criminal Procedure and the Police Act – in addition to regulations. Investigations can also be launched based on several anonymous reports concerning one specific case.

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<sup>86</sup> Adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies

<sup>87</sup> See <http://www.rikissaksoknari.is/um-empaettid/>

190. The Ombudsman of the Althingi, is an important external oversight authority<sup>88</sup>. For example in 2014 the Ombudsman wrote a letter to the minister urging him to reform processes and the system for complaints from the public regarding the police. This was one of the factors that prompted a review of legislation and amendments to the Police Act, establishing a special monitoring committee on the police, which receives complaints and charges.

191. The National Audit Office (NAO) is also a key oversight institution. Its reports are publicly available<sup>89</sup> and some of these have sometimes addressed law enforcement agencies, with recommendations for reform. The last audits of the police date back to 2006 and 2011 (on procurement) and one concerning the IBG's activities was issued in 2014. The GET is of opinion that such evaluations of law enforcement should be conducted on a regular basis.

### *Complaints system*

192. A special independent monitoring committee has been established by amendments to the Police Act in June 2016, and started operating on 1 January 2017, to deal with complaints and charges against police officials and on working methods of the police. The Committee consists of three persons and the same number of substitutes appointed for four years. The Icelandic Human Rights Office nominates one committee member, the Icelandic Bar Association another and the Minister of Justice appoints the third. Members of the committee shall have passed the qualifying examination, or a master's degree, in Law.

193. The main role of the Monitoring Committee is to receive complaints or criminal charges against police officials and its working methods<sup>90</sup> to refer them to the relevant authority, which in general is a police commissioner or a prosecutor, to monitor the handling of each case and, if necessary, to give a reasoned opinion on the procedure and to make a decision in the case is<sup>91</sup>. But the monitoring committee does not have investigative powers nor the competence to change or annul decisions made by other authorities. Its role is to monitor and give opinions when necessary. Complaints can be submitted via e-mail or regular mail. The Committee can be reached by phone. Anonymous complaints are not accepted in general, although they can lead to an examination. The monitoring committee has a dedicated and a rather comprehensive website with the form for complaints and the information on procedures.<sup>92</sup> Information on the Committee is also available on line on the website of the Government Offices<sup>93</sup>.

194. The Minister of Justice issued a regulation no. 222/2017 on the monitoring committee detailing how citizens can submit cases to the committee and also noting that the committee can initiate a case on its own. Prosecutors and police that receive complaints against police are obliged to refer them to the Committee. Furthermore, on 21 March 2017, the Director of Public Prosecutions published guidelines no. 13/2017 on the handling of complaints and charges against the police<sup>94</sup>. These guidelines require from the police to inform citizens about the committee and its contact details, thus facilitating the submission of a complaint or a charge.

195. The Committee's conclusions cannot be appealed to a higher administrative authority. The Ombudsman does, however, receive cases which have been closed by the Committee.

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<sup>88</sup> It has sometimes issued an opinion on the improper conduct of police management, including the Minister.

<sup>89</sup> See NAO website on <https://rikisendurskodun.is/utgefid-efni/skyrslur-til-althingis/>

<sup>90</sup> If such complaints are received by other government agencies or institutions, they shall be forwarded to the committee without delay.

<sup>91</sup> The Directorate of Public Prosecutions investigates a police officer who works for the National Prosecuting Authority or another employee of the authority who exercises police authority.

<sup>92</sup> See <http://nel.is/>

<sup>93</sup> See <https://www.stjornarradid.is/raduneyti/nefndir/nanar-um-nefnd/?itemid=e82c1394-4214-11e7-941a-005056bc530c>

<sup>94</sup> See the rules and guidelines from the Director of Public Prosecutions:

<http://www.rikissaksoknari.is/media/arsskyrslur/RS-13-2017-Um-kaerur-og-kvartanir-a-hendur-starfsmanni-logreglu---I.pdf>

196. The Committee usually meets twice a month and at the time of the visit, since the beginning of 2017, when it became operational, the committee had adopted opinions in 18 cases, out of 54 complaints (situation at the time of the visit). 8 cases were referred to the Director of Public Prosecutions or District Prosecutors for criminal investigations. 3 cases were referred to the National Police. 2 cases were dismissed and 5 cases were not given further treatment. 36 files are still being processed. The Committee is also required to issue an annual report, summarising its findings and some statistics. The Committee contributes to the general oversight and the GET very much welcomes the existence of such a body outside the police force, in the context of Iceland. The GET also noted that the committee is already confronted with a backlog of cases, it lacks resources and it is not (yet) involved in a concerted integrity policy. Updated figures submitted by the authorities at the time of adoption of the present report suggest that the situation is improving and that there is only a backlog of six cases (out of 81 cases).

#### *Immunities or other procedural privileges*

197. Law enforcement officers in Iceland do not enjoy immunities or other procedural privileges.

#### *Reporting misconduct or crime, whistleblower protection*

198. According to Article 11 in the 2016 Police Code of Conduct, police employees are obliged to fight corruption within the police and shall report any such cases to the relevant chief of police and similarly the Code of Conduct for the Icelandic Coast Guard requires employees to report corruption to their supervisors. Article 13 a in the Government Employees Act 70/1996 states that "an employee may not be adversely treated for disclosing to the competent body" a breach of laws or ethical rules. Moreover, there are no sanctions for those who fail to report breaches of law and unethical behaviour of their colleagues.

199. An interagency steering group, comprising also NGO members, worked for four years and drafted a memorandum on whistleblower protection in the public sector. At the time of the visit, this work was never completed (although in May 2017, a law on whistleblower protection was adopted for the financial sector specifically). The authorities indicated in their latest comments that a working group established by the Prime Minister will soon look again into this matter. The Act on the Ombudsman no. 85/1997 has also undergone a review in Parliament so as to provide for an explicit channel for civil servants to report breaches of law or ethical codes.

200. Despite the existence of a policy requirement to report suspicions of corruption and protecting those who make such disclosures, during the on-site discussions reference was sometimes made to a culture which dissuades the reporting on wrongdoings involving a direct colleague or the management. This may be due to the absence of further implementing measures to support the disclosure of wrongdoings (hotline, policy of recalling the existing obligations, more specific provisions on the protection the whistleblower can benefit from etc.). GRECO recalls that whistleblowing policies have been recognised in recent years as an important policy element to uncover, but also dissuade improper conduct. Their effectiveness too often is undermined by the absence of effective protection measures to preserve the whistleblower against possible negative consequences of his/her actions. In light of the above, GRECO recommends that clear rules on whistleblower protection be developed and implemented for law enforcement officers, to complement the existing reporting duty under the rules of conduct.

## VI. RECOMMENDATIONS AND FOLLOW-UP

201. In view of the findings of the present report, GRECO addresses the following recommendations to Iceland:

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

- i. developing a strategy to improve integrity and the management of conflicts of interest with respect to persons entrusted with top executive functions, including through responsive advisory, monitoring and compliance mechanisms (paragraph 37);
- ii. that (i) the codes of conduct for persons entrusted with top executive functions be harmonised or consolidated as the case may be, and complemented with appropriate guidance, including explanatory comments and concrete examples, as well as with confidential counselling and (ii) a credible mechanism of supervision and sanctions be put in place (paragraph 47);
- iii. that efficient internal mechanisms to promote and raise awareness of integrity matters among persons entrusted with top executive functions be established and properly implemented, including training at regular intervals (paragraph 56);
- iv. introducing rules on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other work (paragraph 66);
- v. reviewing the rules for persons entrusted with top executive functions engaging in outside activities and to spell out in greater detail the activities which can be exercised and those which are to be excluded (paragraph 81);
- vi. establishing a more robust set of rules on gifts and other benefits for persons entrusted with top executive functions, which would provide clear reporting lines and the publicity of information, and appropriate guidance to ensure all forms of benefits are adequately dealt with (paragraph 85);
- vii. that rules be introduced to deal with employment after the termination of functions of persons entrusted with top executive functions (paragraph 93);
- viii. that the existing registration system be further developed for persons entrusted with top executive functions, in particular (i) by including quantitative data of the financial assets/contributions received by such persons and by providing details of financial liabilities; and (ii) by considering widening the scope of asset declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public) (paragraph 100);
- ix. strengthening the credibility of the registration system for declarations of financial interests in respect of persons exercising top executive functions, by ensuring greater adherence to the rules through a system of monitoring, providing adequate advice and guidance, and implementing a mechanism of sanction when requirements are not observed (paragraph 103);

### *Regarding law enforcement agencies*

- x. ensuring that the resources allocated to the Icelandic police are sufficient enough to carry out their work effectively, particularly for the actual implementation of integrity-related policies (paragraph 121);

- xi. that (i) the Codes of Conduct for the Police and the Icelandic Coast Guard be complemented to address more broadly conflicts of interest and political activities, and so as to offer practical guidance through explanatory comments and practical examples on all corruption-related subjects, as well as confidential counselling and (ii) a credible mechanism of supervision and sanctions be clearly provided for (paragraph 142);
- xii. that regular training programmes and awareness raising measures on integrity and professional ethics be developed (covering conflicts of interest and other corruption prevention-related matters) for law enforcement bodies, taking into consideration their specificity, the variety of duties and their vulnerabilities (paragraph 151);
- xiii. that (i) the role of the competence assessment committee in the selection of candidates at all levels be strengthened and that integrity checks be included in the recruitment process and periodically used (ii) vacancies as a rule be advertised and filled following a selection process based on clear criteria (paragraph 159);
- xiv. that clear, fair and transparent criteria, based on merit, be introduced for the non-renewing of contracts for law enforcement officers as well as clear appeal possibilities to challenge such decisions (paragraph 167);
- xv. that robust sets of rules be elaborated for the Police and for the Icelandic Coast Guard concerning the acceptance of gifts, hospitality and other benefits (paragraph 177);
- xvi. that a study be conducted on the practice of parallel or post-employment activities of law enforcement officers and in the light of the results, to adopt a stricter framework which would limit risks of conflicts of interest (paragraph 181);
- xvii. that (i) a central unit be established or designated within the police structure to deal with internal supervision and inquiries, under the responsibility of the National Police Commissioner who should have in practice a clear leadership for internal policies, including on integrity, and risk management and supervision; and (ii) the chain of command be reviewed to ensure the effective implementation of such policies, without ministerial and political interference (paragraph 188);
- xviii. that clear rules on whistleblower protection be developed and implemented for law enforcement officers, to complement the existing reporting duty under the rules of conduct (paragraph 200).

202. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Iceland 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.

203. GRECO also invites the Icelandic authorities 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).