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FIFTH EVALUATION ROUND

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

EVALUATION REPORT

DENMARK

Adopted by GRECO
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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in Denmark to prevent corruption amongst persons entrusted with top executive functions (members of the government, and – in certain cases – special advisers) and the Danish police. It aims to support domestic endeavours to strengthen transparency, integrity and accountability in public life, where needed.

2. Denmark traditionally scores high in corruption perception indices and risks of actual bribery taking place are considered to be very low. Trust is a central feature of the Danish integrity system. This reliance on trust has led to a situation in which in certain areas there are few regulations to prevent corruption and few control measures. This is particularly the case regarding persons entrusted with top executive functions in the public sector. In view of GRECO, there however appears to be ample reason to strengthen prevention measures beyond this reliance on trust and to formulate some more binding rules on the prevention of corruption of persons entrusted with top executive functions. Ultimately, persons with top executive functions are the ones who can be expected to set the right tone for public administration in general and to lead by example.

3. To start with, the report calls for the development of an overall strategy for the integrity of persons with top executive functions, based on an analysis of integrity-related risks involving members of the government and their special advisers. In this spirit, the establishment of a code of conduct for persons with top executive functions, which focuses specifically on conflicts of interest and other integrity-related matters (along with a systematic briefing as well as confidential counselling on ethical issues) would be an appropriate complement to the existing handbook for members of the government. Moreover, the current system needs to be further complemented with rules (and guidance) on how persons entrusted with top executive functions engage in contacts with lobbyists as well as on revolving doors (i.e. the employment of persons with top executive functions following the termination of their service in the public sector). It is additionally recommended to enshrine the current guidelines on financial declarations by members of the government into a regulation or legislation, to include quantitative data on income, assets and significant liabilities, and to ensure that these declarations are subject to review. Furthermore, given the importance GRECO attaches to public access to official information, Denmark is called upon to amend the scope of exceptions under the Access to Public Administration Files Act or to take further measures so that exceptions to the rule of public disclosure are interpreted more narrowly in practice.

4. As for law enforcement, GRECO is pleased to note both the high degree of trust the police enjoys in Danish society and various reforms implemented over the last ten years, with the establishment in 2012 of the Independent Police Complaints Authority as a particular highlight. In addition, from the perspective of corruption prevention, the introduction in 2015 of standard vetting of new police recruits by the Danish Security and Intelligence Service and a clear classification of security levels for different positions in the police, as well as the adoption of new guidelines "Good behaviour in the police and prosecution service" in 2018 (which also introduced a stricter policy on the acceptance of gifts) and the strengthening of police procurement procedures in 2018, deserve to be mentioned.

5. Notwithstanding these positive features, there are a few areas where further improvements should be made. This concerns, for example, the training made available to police officers on integrity requirements relevant for the police, which should also be made mandatory for managers. The report also outlines that more could be done to make the police more representative of society as a whole. It furthermore calls for the development of a system for authorisation of secondary activities by police officers, with an effective follow-up to be given to such authorisations, and – as it is currently not clear what type of employment is taken up by police officers after they leave the police or what the scale of potential conflicts of interest therein is – it is recommended to have a study on this issue carried out and subsequently, if needed, to have further rules adopted. Finally, GRECO welcomes the new whistleblowing system introduced in the Danish police in March 2019 and hopes that this will lead to the introduction of whistleblower regulations also in other sectors of society. As a complement to this new whistleblowing system in the police, it is recommended to raise awareness of staff of the police of their duty to report corruption-related misconduct within the police service.

6. GRECO trusts that the recommendations included in this report, in particular as regards persons with top executive functions, provide a roadmap following the June 2019 elections for improvements to the current integrity framework, where needed.

II. INTRODUCTION AND METHODOLOGY

7. Denmark joined GRECO in 2000 and has been evaluated in the framework of GRECO's First (in February 2002), Second (in September 2004), Third (in December 2008) Evaluation Rounds and Fourth (in March 2014) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.[1]

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

9. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Denmark from 12 to 16 November 2018 and reference was made to the responses by Denmark to the Evaluation Questionnaire, as well as other information received from governmental institutions, civil society etc. The GET was composed of Ms Anna GAU, Senior Specialist, Legal Affairs, Ministry of Finance (Finland), Mr Daniel MARINHO PIRES, Legal Adviser, Directorate General for Justice Policy, International Affairs Department, Ministry of Justice (Portugal), Ms Maja MATIC, Head of the Department for Petitions of Citizens, Anti-Corruption Agency (Serbia), Ms Silvia SPÄTH, Detective Chief Inspector, Federal Ministry of the Interior (Germany). The GET was supported by Ms Tania VAN DIJK from GRECO's Secretariat.

10. The GET interviewed various representatives of the Ministry of Justice (which included representatives of the Danish National Police and the Danish Security and Intelligence Service) the Parliamentary Ombudsman, the Prime Minister's Office, the Ministry of Finance (including the Agency for Modernisation), Members of Parliament (Public Accounts Committee), Auditor General's Office, the Data Protection Agency and the Independent Police Complaints Authority.

11. Finally, the GET met with representatives of Transparency International Denmark, the media and the Danish Confederation of Professional Associations, *Akademikerne.*

[1] More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's website.

III. CONTEXT

12. Denmark has been a member of GRECO since 2000 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption.[2] Initially Denmark had a very good record of implementation of recommendations issued by GRECO, with 75% of recommendations issued in the framework of the First Evaluation Round fully implemented (with one recommendation remaining partly implemented) and 83% of recommendations issued in the framework of the Second Evaluation Round fully implemented (with one recommendation remaining partly implemented). In contrast, implementation of the recommendations in GRECO's Third and Fourth Evaluation Rounds has been a challenge for Denmark, in particular as regards the transparency of the funding of political parties in the Third Evaluation Round and prevention of corruption in respect of members of parliament in the Fourth Evaluation Round. Following years of a lack of sufficient transparency as regards party funding, which prompted GRECO to organise a high-level visit[3] to Denmark in 2016 to push for improvements, GRECO ended its particular non-compliance procedure in 2018. The ordinary compliance procedure is however still on-going, as at the time of adoption of this report only 43% of the recommendations had been fully complied with in the Third Evaluation Round. The situation seemed initially more favourable in the Fourth Evaluation Round. However, by June 2018, GRECO concluded that only one of the recommendations contained in the Fourth Round Evaluation Report had been fully implemented (16% of the number of recommendations), leading to the start of another non-compliance procedure in respect of Denmark.

13. Denmark is consistently placed either first or second in terms of level of perceived corruption in Transparency International's Corruption Perception Index.[4] The 2017 Special Barometer on Corruption also places Denmark among the EU countries least affected by corruption. According to this survey, 22% of respondents in Denmark believe that corruption is widespread in the country (which is more than two-thirds lower than the EU average of 68%). Three percent of respondents have furthermore experienced or witnessed corruption in the 12 months prior to the survey (lower than the EU average of five percent) and four percent of respondents in Denmark feel affected by corruption in their daily lives (whereas the EU average is 25%). Furthermore, 34% of respondents in Denmark believe corruption is widespread among politicians at national, regional and local level (EU average: 53%) and 9% believe it is common among police and customs officers (EU average: 33%), with many more respondents in Denmark spontaneously indicating there is no corruption in any of the institutions listed in the survey (29% compared to an EU average of 7%). Of the respondents in Denmark 40% furthermore agree that the government's efforts to combat corruption are effective, with 37% disagreeing (with the EU average being 30% agreeing and 56% disagreeing). It is furthermore ranked ninth among 30 advanced economies in fighting

[2] Evaluation Round I: Independence, specialization 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.

[3] Rule 32. 2. III. of GRECO's Rules of Procedure

[4] In 2018, the country was ranked first.

corruption according to the Inclusive Growth and Development Report (2017) of the World Economic Forum.

14. Notwithstanding these positive scores, recent scandals – such as the major anti-money laundering case involving the country's largest bank (Danske Bank)[5] and the embezzlement of 121M Danish Kroner (DKK) (approximately 16,2M EUR) from the Ministry of Social Affairs[6] – have cast a shadow over this image. While corruption cases are indeed rare, a case such as the ATEA bribery case (dubbed by some to be the largest bribery case in the history of Denmark), in which in 2018 more than 20 public officials working in IT departments (including an official of the Danish National Police) were indicted for accepting bribes from IT company ATEA, shows that Denmark cannot become complacent or blind to the risks of corruption.[7]

15. Some of the GET's interlocutors stated that – particularly in public perception – corruption is understood narrowly, in that it is being regarded as limited to bribery in the strict sense. Given the few cases of this kind, there is not always enough awareness of or sensitivity to other corruption-related misconduct and integrity risks. Trust is a central feature of the Danish integrity system. However, this reliance on trust seems to have led to regulations and control measures to some extent being seen as unnecessary bureaucracy. In view of the GET, trust is a good thing, but it may create a false sense of security and should not be taken as an excuse for neglecting proper controls. In a number of situations, as will be outlined below, there appears to be ample reason to go beyond trust and formulating some more binding rules on the prevention of corruption, to promote integrity in the central government and the police.

[5] See for instance the Financial Times, *Danske: anatomy of a money laundering scandal* (19 December 2018), https://www.ft.com/content/519ad6ae-bcd8-11e8-94b2-17176fbf93f5.

[6] See for instance https://www.reuters.com/article/us-denmark-fraud/danish-suspect-in-17-million-fraud-case-arrested-in-south-africa-idUSKCN1NA10A; https://www.apnews.com/e10d2386c8ef408db6dafabb02dd085f.

[7] In June 2018, the District Court of Glostrup (case 15-2678/2017) found three public officials from the Municipal Region of Zealand and four employees of ATEA, a Danish supplier of IT infrastructure, guilty of bribery (accepting and giving bribes respectively) and ATEA, as a corporate entity, was found guilty of bribery and sentenced a fine of DKK 10 million. The individuals were sentenced up to 1.5 years' imprisonment and several hours of community service. An additional 18 public officials (including employees in the Danish National Police and the Ministry of Foreign Affairs) have been indicted for accepting bribes from ATEA. See for instance: N. Ellehuus, *An Interesting Day for Anti-Corruption in Denmark – The ATEA-case*, https://www.linkedin.com/pulse/interesting-day-anti-corruption-denmark-atea-case-nicolai-ellehuus.

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

System of government and top executive functions

System of government

16. Denmark is a constitutional monarchy (Constitution, Section 2) and a parliamentary democracy, with a multi-party political system. The Monarch (the Queen) is the Kingdom's Head of State.[8] The principle of separation of powers between the legislature, the executive and the judiciary power is laid down in Section 3 of the Constitution. Formally, according to the Constitution, legislative power is vested conjointly in the Monarch and the *Folketing*, the unicameral Danish Parliament[9], but in practice this is interpreted as legislative powers being with the government and the *Folketing*. Similarly, executive power is formally vested in the Monarch (Constitution, Section 3), but the Constitution also makes it clear that the executive power is exercised through the ministers of the government (Constitution, Section 12), which is where in practice the executive power lies. The Monarch formally signs acts of state, but in order for such acts to have validity they have to be countersigned by a minister, who bears legal responsibility for the decision (Section 14, Constitution).[10]

17. As agreed by GRECO, a Head of State would be covered in the 5th evaluation round under "central governments (top executive functions)" when s/he actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

18. It is clear that the Queen of Denmark does not actively participate on a regular basis in the development and/or execution of governmental functions.[11] Her functions are solely of a representative and ceremonial nature. The few links to the executive branch that exist are of

[8] The current Monarch is Queen Margrethe the Second, who acceded to the throne in 1972. Since 1953 when women received the right to succeed to the throne, both men and women can inherit the Crown. Following a binding referendum in 2009, an amendment to the Act of Succession entered into force, to the effect that the first-born – irrespective of gender – will always succeed to the throne.

[9] The *Folketing* has 179 members, who are elected directly for a four years' term under a proportional representation system (for more information on the *Folketing*, see the Fourth Round Evaluation Report on Denmark).

[10] The Constitution warrants certain powers to the Monarch, some of which are exercised by the government according to practice evolved over time (which is not laid down in law however). These powers are called government prerogatives. Accordingly, the decision on the number of the ministers and the distribution of duties between them, which according to the section 14 of the Constitution befalls upon the Monarch, is a prerogative of the Prime Minister. In addition, several constitutional powers of the Monarch are governmental prerogatives, for example: Section 19, according to which the Monarch acts on behalf of the Kingdom in international affairs; Section 21, according to which the Monarch may take the initiative to introduce bills and other measures in the Folketing; Section 22, according to which the Monarch orders the promulgation of statues and shall ensure their enactment; Section 23, according to which the Monarch can issue provisional laws (under certain conditions) in an emergency, when the Folketing cannot assemble; Section 24, according to which the Monarch can pardon and grant amnesty, and; Section 32, paragraph 2, according to which the Monarch calls for elections.

[11] She presides over the State Council, which meets around six-seven times each Parliamentary session (October-June), but this is a ceremonial arrangement where adopted laws are signed. It has no bearing on the content of governmental decisions discussed in Cabinet meetings, which are not attended by the Queen.

a formal nature and, with the constraints set by the Constitution, laws and precedents; she cannot exercise any independent or discretionary powers in an executive capacity. Consequently, the functions of the Head of State in Denmark do not fall within the category of "persons entrusted with top executive functions" (hereafter: PTEFs) covered by the current Evaluation Round.

19. The government, led by the Prime Minister, exercises executive power. Since November 2016, Denmark has had a minority coalition government of three parties.[12] Elections were being held on 5 June, but at the time of adoption of this report no new government had been formed yet. The number of ministers and their function is decided by the Prime Minister and can thus vary between governments. At the time of adoption of this report, the incumbent government comprised 22 ministers (including the Prime Minister), of which nine are female.[13] This ratio is in line with the Committee of Ministers' Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making.

Status and remuneration of persons with top executive functions

20. The Monarch formally appoints the Prime Minister. As a single party rarely has a majority in the *Folketing*, parties form alliances. The leader of the largest alliance and the largest party in that alliance is usually selected as Prime Minister-elect. The Monarch only appoints the Prime Minister if a majority in the *Folketing* is not against his/her appointment.

21. The Prime Minister decides on the number of ministers and the distribution of duties between them. In practice, s/he will do so together with the leaders of the smaller parties in the alliance. This power is a prerogative of the Prime Minister (Section 14, Constitution) and cannot be appealed, but the Prime Minister is obliged to dismiss a minister if a majority in the *Folketing* adopts a vote of no-confidence against a minister (or against the Prime-Minster, who will then be obliged to either step down or to call for a general election).

22. Ministers are also formally appointed by the Monarch, based on the proposal made by the new Prime Minister-elect in accordance with the prerogative in Section 14 of the Constitution. Prior to their appointment, the National Security and Intelligence Service will be asked to conduct a so-called "registry investigation". This "registry investigation" includes any existing records the National Security and Intelligence Service may have on ministerial candidates. Based on this information, it is up to the Prime Minister to decide whether the person in question is appointed as minister. Most ministers are also members of parliament.[14]

[12] At the time of adoption of this report, the government comprised the parties *Venstre*, *Liberal Alliance* and *Det Konservative Folkeparti*. The government also relied on parliamentary support of *Dansk Folkeparti*.

[13] The current government comprises 13 male ministers (Prime Minister; economic affairs and the interior; defence; employment; energy, utilities and climate; environment and food; finance; foreign affairs; higher education and science; industry, business and financial affairs; justice; taxation; transport, building and housing) and nine female ministers (international development; public sector innovation; children and social affairs; culture and ecclesiastical affairs; education; health; senior citizens; fisheries, equal opportunities and Nordic cooperation; immigration and integration).

[14] In the current government, 19 out of 22 ministers are members of parliament. Only the Minister for Higher Education and Science, the Minister for Development Cooperation and the Minister for the Elderly are not (but have previously been) members of parliament.

23. The system of government is ministerial, in that each minister has the highest executive power within his/her purview. By law, the Prime Minister has no other power over ministers than the power to dismiss a minister or to change the minister's portfolio. S/he cannot issue orders to other ministers, or change their decisions, and decisions by ministers within their purview cannot be appealed to the Prime Minister. In exceptional circumstances, when the Prime Minister has a justified presumption of a minister's unlawful conduct of some significance, the Prime Minister can have a supervisory duty over another minister, deriving from his/her position as head of the government.

24. Government decisions on legislative proposals and other sizeable government initiatives are taken at weekly cabinet meetings (every Tuesday) under the direction of the Prime Minister. Political sensitive and important decisions will in practice be discussed in governmental committees, composed of Ministers designated by the Prime Minister.[15] The Danish authorities emphasise that governmental committees do not take decisions as such, but only discuss matters in preparation of decisions taken at cabinet meetings. Less important decisions are taken by ministers individually, without prior consultation of within informal governmental bodies. Only Ministers sit on governmental committees (although the meetings are attended by civil servants from the Prime Minister's Office as observers), but parallel structures to prepare the governmental committee meetings exist at the level of permanent secretaries (see as regards permanent secretaries further below).[16]

25. When making a decision of an administrative nature, including issuing a statutory instrument under delegated power from the legislature, a minister is bound by general principles of law, such as legality, equal treatment, proportionality and the obligation to base decisions on objective reasons. When making a political decision, such as deciding to submit a draft law to parliament, a minister is bound by the Constitution (i.e. the draft law cannot be unconstitutional), but s/he has otherwise a wide discretion. Ministerial decisions cannot be appealed to another body, but are subject to judicial review by the courts, on application of an interested party.

26. Ministerial responsibility is both political and legal. As indicated above, if the *Folketing* adopts a vote of no confidence against a minister, s/he will be dismissed (and in case a vote of no-confidence gets adopted against the Prime Minister, s/he will be obliged to resign or call for an election). Since the adoption of the current Constitution in 1953, there have however not been any actual votes of no-confidence regarding the Prime Minister.[17] In addition, section 16 of the Constitution explicitly provides that the government or the *Folketing* can impeach ministers for maladministration. Impeachment cases are brought before the Court of

[15] The current government has set up six governmental bodies, namely the Coordination Committee (on major police initiatives and foreign affairs) chaired by the Prime Minister, the Economics Committee (on political initiatives with significant economic and budgetary implications), chaired by the Ministry of Finance, and the Appointments Committee (on the appointment of senior officials and special political advisers), chaired by the Prime Minister, which all normally meet every week. Furthermore, there is the Security Committee, chaired by the Prime Minister, the EU-Implementation Committee, chaired by the Minister for Employment, and the Ministerial Committee for Public Sector Renewal, chaired by the Minister for Public Sector Innovation, which all meet once a month or according to need.

[16] Parallel civil servant committees at the level of permanent secretaries exist for the Coordination Committee, the Economics Committee, the Security Committee and the EU-Implementation Committee.

[17] Although in 1975 a government resigned after the *Folketing* adopted an agenda calling on the Prime Minister to resign due to parliamentary instability, which was similar to a vote of no-confidence. The government subsequently resigned.

Impeachment. The Ministerial Accountability Act of 1964 describes the responsibility of ministers' (including the Prime Minister) for disregarding (be it intentionally or by gross negligence) duties imposed on him/her (by the Constitution, legislation in general or due to the nature of the post of Minister), including for providing incorrect / misleading information or not providing certain pertinent information to the *Folketing* (see paragraphs 88-91 further below).

27. Ministers have their own cabinet (usually comprising one or two academic secretaries, as well as clerks and press officers, who are all civil servants and required to remain politically neutral). The most senior civil servant in a ministry is the permanent secretary, who is the administrative director of the ministry (and as such has certain executive powers in administrative matters concerning the ministry) and advises the minister on departmental and political issues. Permanent secretaries are not political nominees and are not removed from their position when a new government comes to power. When a vacancy for permanent secretary arises, the position is advertised and a formal recruitment procedure follows. An individual minister would only have some influence on appointments to these positions if a vacancy for permanent secretary opens up in their ministry during their term in office. Permanent secretaries are civil servants, but at times more stringent regulations apply to them than regulations applying to ordinary civil servants (for example as regards secondary employment or the vetting carried out for their security clearance, due to their access to sensitive or secret information). As civil servants, permanent secretaries are to remain politically neutral and are to execute political decisions of their ministers loyally, with the minister being ultimately accountable to parliament for these decisions and their execution. In view of this, the GET does not consider permanent secretaries to be PTEFs.

28. Furthermore, the Ministry of Foreign Affairs currently has four state secretaries, who are appointed by and accountable to the permanent secretary of the ministry. They are not members of the government and not in any way politically appointed. The GET does not consider the state secretaries at the Ministry of Foreign Affairs to be PTEFs.

29. In addition, Ministers may appoint special advisers. Each Minister can have one special adviser, unless the Minister is a leader of a political party in which case they can have two special advisers.[18] Special advisers are employed as (non-permanent) civil servants[19], with their employment coinciding with the term of office of their ministers. Before they can be employed, approval is required from the Appointments Committee (see as regards governmental committees above). Special advisers are discharged with immediate effect when an election is announced or when their minister resigns (but they continue to receive remuneration for six months thereafter). Their tasks vary from minister to minister, but usually include media-related tasks, political-tactical and professional policy advice. To a certain extent they also carry out political party-related tasks (speech writing for party events, liaising with the party organisation / party spokespersons / the fraction in the *Folketing* etc.), but the authorities indicate that their main tasks should be related to the minister's responsibilities as a political executive. Special advisors refer to the permanent secretary of a ministry, but in practice they are not subject to a detailed instructional authority. They are not responsible for decision-making and cannot replace the minister. They are not in a hierarchical

[18] The number and distribution of special advisers is decided by the government and can thus be changed.

[19] The GET was however told that the Civil Service Act was not applicable to special advisers: special advisers are employed s (non-permanent) civil servants under a collective labour agreement.

relationship to civil servants and as such cannot provide civil servants with formal instructions on the substantive content of different matters. However, as they naturally carry the weight of their minister's authority, they can nevertheless direct the actions of (other) civil servants to a certain extent. Their remuneration has to be approved by the Agency of Modernisation at the Ministry of Finance, but cannot be more than 75% of a minister's wage. This Agency also publishes and overview of their remuneration and a short biography of each special political adviser on its website, which is regularly updated.

30. The GET was made aware that in 2011 the *Folketing* conducted a debate on the functions and number of special advisers, which led to a report by a special expert committee.[20] This committee concluded that there was no need for substantive amendments to the regulations on special advisers and that the nature of the tasks handled by special advisers (especially the network-oriented, party-political advice and support) was such that the permanent civil service could only be expected to provide this to a limited extent. It *inter alia* advised that a minister should not have more than two or three special advisers, to set up a more systemic introduction for special advisers upon taking up their position and to provide for greater openness as to the remuneration provided to them (but it did not see the need to extend this openness by advertising vacancies for special advisors). The committee also did not find any need for any additional (disciplinary or other) sanctions for possible misconduct by special advisers other than those already applying to them. Both aforementioned recommendations on an introduction course and more transparency on remuneration have subsequently been taken on board.

31. The GET is aware that special advisers do not have independent executive powers and operate under the responsibility of a minister. However, their influence – in particular in weighing initiatives and conveying ideas to their minister, liaising with the parliament etc. – is such that in the view of the GET they cannot be equated with ordinary civil servants (e.g. also given that certain principles applicable to civil servants, such as political neutrality, cannot apply to them). Special advisers will therefore be included in the remit of this report where appropriate.

[20] The special expert committee was tasked to *inter alia* assess whether there was a need for clarification of the current regulations and guidelines, including the number of special advisers, and whether in future ministers could be better served by permanent civil servants. The report of the special expert committee gives in its chapter 7 an overview in English.

32. The (annual) range of gross salaries for the aforementioned posts is as follows:

Position	Salary (DK) [21]	Salary (EUR)
Prime Minister	1.574.372,83	210.809
Minister of Finance, Minister of Foreign Affairs and the minister who is number two in the State Council	1.385.448,09	185.511
Other ministers	1.259.498,26	168.647
Permanent secretaries	max. 2.305.500	308.706
Special advisers[22]	max. 1.128.000	max. 151.039

33. The abovementioned remuneration is taxed as personal income, but ministers receive a tax exemption allowance (which currently stands at 62.262 DKK / approximately EUR 8.337 annually). A minister who is also a member of parliament will have his/her ministerial salary reduced with the remuneration s/he receives as a member of parliament.

34. If a minister does not live in the capital and is not a member of parliament (in which case s/he would be provided with an apartment by the parliament), s/he is additionally entitled to a housing allowance (currently 78.261 DKK / approximately EUR 10.479 annually) and to a double housing allowance (currently 31.305 DKK / approximately EUR 4.192 annually).[23] Furthermore, in accordance with guidelines issued by the Prime Minister's Office on 10 June 2008, ministries may incur expenses for a minister's travels related to the office, including use of the ministerial car, taxi's etc.[24] The use of these funds and the expenses on the budget of the ministry are audited by the Auditor General's Office. Furthermore, the individual ministry may also cover expenses for the minister's computer, mobile phone, language education (etc.), if these expenses are related to his/her office.

35. Upon leaving his/her position, a minister is also entitled to receive an additional allowance in the same amount as his/her salary for a period (of a minimum of 18 months[25] to a maximum of 36 months) corresponding to half the months the minister has served. As indicated before, special advisers have to leave their position the moment elections are called and continue to receive a salary for six months after leaving their position (i.e. when an election is called or when their minister resigns).

[21] Ministers receive the "basic remuneration", with the Minister of Finance, the Minister of Foreign Affairs and the Minister who is number two in the State Council receiving 110% of this basic remuneration and the Prime Minister receiving 125% of this basic remuneration.

[22] As indicated above, the remuneration of special advisers can differ from one ministry to the next, but is no higher than 75% of a minister's salary.

[23] A housing allowance is compensation for permanent supplementary housing or costs of hotel accommodation for ministers who are resident outside the Zealand area and are not members of parliament (who if they were would be provided with an apartment free of charge by the parliament). These ministers are also entitled to a double housing allowance (to compensate for the additional expenses by having a household away from Copenhagen).

[24] The rules are based on the perception that a minister is always in service, and the definition of what is work-related is therefore broad in relation to the use of the ministerial car and other travels.

[25] Following the parliamentary elections of 5 June 2019, this minimum period is reduced from 18 to six months. However, the ministers in the current government will continue to receive a salary for 18 months.

Anticorruption and integrity policy, regulatory and institutional framework

Anticorruption and integrity policy

36. There is no dedicated strategy or policy for the prevention of corruption in Denmark. In the discussions the GET had on-site, corruption seemed to be mostly regarded as having to do with "money in envelopes" being exchanged for favours, of which there are few cases to be found. The GET considers that this rather narrow view, combined with Denmark consistently ranking either first or second place in international corruption perception indices (see context), seems to have led to a lack of sensitivity of other forms of corrupt conduct and an underestimation of the importance of promoting integrity among PTEFs. Trust and political responsibility are at the core of the system, which explains the limited regulations (as will be outlined further below) on matters of integrity for PTEFs.

37. In Denmark, ministers[26] are for the most part also members of parliament (to which to date few integrity regulations apply, as is evident from GRECO's Fourth Round Evaluation Report and subsequent Compliance Reports), in some cases also party leaders (with few rules on the transparency of the funding of these parties, as is also evident from GRECO's Third Round Evaluation Report and subsequent Compliance Reports) and can move to important positions in the private sector (and back) with relative ease. This means that decision-making can be in the hands of a relatively small circle of people, which makes it all the more important that such persons are held to a high standard of integrity.

38. As is clear from the above, the GET considers it important that more in-depth attention is paid to questions regarding the integrity of PTEFs. Such an approach should start with a further analysis in order to focus on precisely those areas where risks of conflicts of interest and corruption are either more prevalent or pose a particular challenge. A risk analysis in itself would contribute to raising awareness in Denmark that corruption is a broader issue than just bribery, reaffirm the focus on impartial government decision-making and demonstrate Denmark's commitment to anti-corruption efforts (in spite of its continued high standing in corruption perception indices). In this context and notwithstanding the abovementioned report by the special expert committee (see paragraph 30), there may be situations where special advisers carry out such tasks requiring them be covered by integrity standards different from those applicable to (other) civil servants, and such an analysis should therefore also take their role into account. A policy for PTEFs would ideally build on the findings and recommendations in the current report. **GRECO recommends that an analysis of integrity-related risks involving members of the government and special advisers be carried out and that on this basis a strategy for the integrity of persons with top executive functions be developed and implemented.**

Ethical principles and rules of conduct

39. In recent years two new or revised governmental publications on integrity have seen the light. In 2015 "Code VII – 7 key duties" (hereafter: Code VII) was published, focusing specifically on duties of civil servants in relation to the advice and assistance they render to

[26] It should be emphasised that for the purpose of this report, whenever discussing ministers this is to include the Prime Minister, except when this position is expressly mentioned separately.

the government and/or individual ministers.[27] Moreover, in 2017, a revised Code of Conduct for the Public Sector was published, a comprehensive document, which – based on applicable legislation – provides guidance to public sector employees, on such issues as confidentiality, impartiality, gifts and other benefits, secondary employment and sound financial management.[28] While these publications are of great value and are enforceable, they do not apply to ministers (but they do apply to special advisers and top-level civil servants).[29]

40. By contrast, no code of conduct exists for ministers. Upon their appointment ministers are provided with a handbook, which deals with a variety of issues relevant for the work of a minister (i.e. information on intergovernmental work, the legislative process, ministers' legal and political responsibility, the rules and guidelines for civil servants' advice and assistance). As such, the handbook also contains guidance on certain integrity matters, by including the guidelines relating to ministers' acceptance of gifts and the rules and guidelines relating to ministers' occupations and financial interests. While the GET welcomes the handbook and considers it a useful tool, it also considers it to fall short in a number of areas, in particular as regards the rules outlined in the Public Administration Act on conflicts of interest (which in itself gives large discretion and very little guidance to ministers to interpret situations in which a conflict of interest may arise and when to recuse oneself, as will be shown below), the use of information that is not secret but is not generally known, the misuse of government resources that do not rise to the level of crime, dealing with lobbyists or other third parties seeking official action, reporting on negotiations for future employment and gifts. In addition, the different guidelines – as contained in the handbook – do not appear to be particularly well known by the public (even if the most recent handbook was disclosed by the Prime Minister's Office and can also be obtained under the Access to Public Administration Files Act), nor suitable for awareness-raising, and there is no particular enforcement mechanism connected to the few guidelines contained in the handbook, apart from the political oversight exercised by Parliament. The GET was told that following the June 2019 parliamentary elections, guidelines on conflicts of interest (including the rules outlined in the Public Administration Act) would be added to the handbook, which is a welcome development.

41. It is the view of the GET that members of the government should set the right tone for public administration and should lead by example. Therefore, the GET sees much benefit in establishing a code of conduct for members of the government consolidating existing rules and guidelines on integrity, complemented with further rules and guidelines on issues which have not been covered yet (e.g. dealing with lobbyists and other third parties) with explanations and examples. Such a document would have a dual purpose in providing

[27] Code VII addresses seven key duties, which are considered most essential to the work of civil servants in the central government in their interactions with ministers, with a brief explanation of what this duty means and implies. The seven key duties are legality, truthfulness, professionalism, development and co-operation, responsibility and management, openness about errors and party-political neutrality. It is explicitly provided in Code VII that it is not exhaustive and prescribes that civil servants should talk to their supervisor if in doubt, senior managers should ensure dissemination of its content, that it is used in performance evaluations and it is to be used in management training programmes.

[28] The revised Code of Conduct for the Public Sector applies to all public sector employees and was developed by a task force, consisting of representatives of the Prime Minister's Office, the Ministry of Finance, the Ministry of Justice, the Ministry of Economic Affairs and the Interior, Local Government Denmark and the Danish Regions.

[29] Both publications (which can be downloaded for free from the website of the Agency for Modernisation at the Ministry of Finance) serve as guidance, describing the legal framework (e.g. the Public Administration Act). Lack of compliance with the rules described in the code of conduct and Code VII entails violation of other legislation, and can therefore lead to disciplinary actions.

additional guidance to members of the government themselves on integrity issues and clarify to the public what conduct it can expect from PTEFs, justifying the trust place upon them.

42. Furthermore, in line with GRECO's standard practice, such a code would need to be coupled with some form of enforcement. The GET considers that non-criminal enforceability of a code would have obvious merits, in that it can provide for additional proportionality to the accountability of ministers who have little or none for official misconduct other than through a vote of no-confidence or the impeachment process.

43. The GET welcomes that in respect of civil servants (including special advisers and top-level civil servants) there is a code of conduct in place, which is complemented by the abovementioned Code VII. The GET considers the Code of Conduct for the Public Sector a comprehensive document, providing clear guidance on such issues as confidentiality, impartiality, gifts and other benefits, secondary employment. While as indicated before, special advisers are covered by this code, the rules therein may not always be suitable to them, considering for example that civil servants are expected to remain politically neutral in carrying out their work whereas for special advisers this is clearly not the case. They are recruited differently from civil servants, have a different status and carry out political functions. Therefore, it appears appropriate to cover special advisers by integrity rules for PTEFs in situations where they may be influential in respect of ministers' decision-making.

44. In light of this, **GRECO recommends (i) that a code of conduct for persons with top executive functions be adopted, complemented with appropriate guidance regarding conflicts of interest and other integrity-related matters (e.g. gifts, outside activities, third party contacts, handling of confidential information etc.) and (ii) that such a code be coupled with a mechanism of supervision and enforcement.**

Institutional framework

45. Denmark does not have a dedicated entity responsible for promoting integrity and preventing corruption, but several authorities indirectly have tasks in this area, related to the management of public administration, for example the Agency for Modernisation at the Ministry of Finance (which has published the revised Code of Conduct in the Public Sector and Code VII and also acts as legal advisor to central government employers on labour law issues) and the Prime Minister's Office (which has issued guidelines issued on the declaration of financial interests by ministers and may provide advice to ministers on the conduct expected of them).

Awareness

46. There are no special awareness mechanisms for ministers on integrity issues, other than the information imparted as part of the handbook, mentioned in paragraph 40 above. The GET was told that, when necessary, ministers could seek advice on questions as regards integrity and the conduct expected of them from the Prime Minister's Office or the permanent secretary at their own ministry. As regards special advisers, the GET heard that the strong culture of integrity in the civil service did not necessarily extend to special advisers, as the nature of their position was so very different from civil servants and other government employees (with some interlocutors saying that the job of special advisors was mainly to make

sure that their minister "looks good" and "to keep the press at bay"). The GET was therefore pleased to note that, following the recommendations of the special expert committee (see paragraph 30 above), special advisers are now to undergo a special introduction course upon their appointment, which specifically addresses the Code VII and the Code of Conduct for the Public Sector. In addition, special advisers are encouraged to seek advice from the permanent secretary at their ministry and the ministry's in-house lawyers/law-division, when needed.

47. The GET was told that a representative of the Prime Minister's Office presented the most important issues of the abovementioned handbook at a cabinet meeting following the 2015 elections. The GET considers that it would be beneficial for it to become a standard practice for ministers to be systematically briefed upon taking up their position on the integrity standards applying to them and the conduct of expected of them (in terms of conflicts of interest, financial declarations, contacts with third parties, gifts etc.). Such briefings would also usefully include their role when it comes to ensuring integrity and implementation of anti-corruption policies within their own ministries. In addition, the GET finds that the channels to communicate on possible ethical dilemmas should be more clearly defined, harmonising practices and consolidating institutional memory regardless of government changes taking place. It would thus be useful to designate someone at governmental level, as appropriate, as a confidential counsellor for ministers. Consequently, **GRECO recommends that i) systematic briefing on integrity issues be imparted to members of the government upon taking up their positions and at certain intervals thereafter and ii) confidential counselling on integrity issues be established for them.**

Transparency and oversight of executive activities of central government

Access to information

48. The Access to Public Administration Files Act, which was amended in 2014, provides for disclosure of information and documents held by public administration bodies, including ministries. In accordance with Article 7 of this Act, anyone can request disclosure of documents of a public administration body. However, public access can be denied in certain types of cases[30], for certain types of documents[31] and for certain types of information[32]. In addition, access to public information may be restricted if its protection is essential for the security of the state, the protection of financial interests or other similar reasons listed in the law (sections 31-33).

[30] Pursuant to sections 19-22 of the Access to Public Administration Files Act, this includes criminal cases but also legislative proposals before they are sent to Parliament and the management of calendars, for example those of ministers.

[31] This includes internal documents (section 23(1)(1)); internal documents and information which are transmitted between a ministry department and its subordinate authorities or between ministries at a time when a minister needs the advice and counsel of his/her staff (sections 23(1)(2) and 24(1)); internal documents that are transmitted between KL (i.e. Local Government Denmark, which is the association and interest organisation of 98 Danish municipalities), Danske Regioner and member of these organisations in relation to economic or political negotiations with the government or in relation to discussions of joint municipal or regional political initiatives (section 25), records of meetings of the Council of State (section 27(1)), documents prepared and exchanges between ministers and members of parliament in connection with legislative or equivalent political processes (section 27(2)).

[32] For example, private circumstances of individual persons (section 30(1)).

49. The GET understands that even if the amended law intended to modernise the legal framework on access to information, its adoption was not without controversy.[33] While the previous Access to Public Administration Files Act of 1985 also provided that documents exchanged within a ministry could be exempted from access on the ground that they were internal (out of regard for the internal political decision-making process), with the amended Act this exception has been extended to 1) documents and information exchanged between a ministry's department and its subordinate authorities or between ministries when there is reasons to believe that a minister has or is going to have a need for advice and support from his/her staff (section 24(1)) as well as 2) documents prepared and exchanged between a minister and a member of parliament in connection with cases regarding legislative or equivalent political processes (section 27(2)). Journalists found that, in the first six months of entry into force of the amended law, section 24 in particular was invoked 360 times by 17 different ministries.[34] In its annual report over 2016, the Parliamentary Ombudsman concluded, after an investigation looking specifically into 30 selected cases covering four ministries, that the ministries "generally use the ministerial advice and assistance regulation legally correctly" but that "in practice, the regulation results in considerable restrictions on the right of access to public files".[35]

50. Interlocutors met by the GET further outlined that the formulation of the aforementioned specific exceptions left a wide margin of appreciation, which in effect "pushed the decision down" to civil servants who in a hierarchical structure as a ministry would quite naturally err on the side of caution, when deciding whether or not to make or not to make certain information public upon request. The GET appreciates the positive features of the Act, which provide that when processing a request for information, public authorities are obliged to consider whether access can be granted to a greater extent than required under the Act. However, in practice this often seems to result in – echoing the words of the Parliamentary Ombudsman – "the release of documents and information which cannot be presumed to be of particular interest to the public".[36] As such, the Act does not live up to its premise of intended openness. In view of the GET, in a country with such a great tradition of openness and where the strength of investigative journalism is relied upon to bring possible misconduct by its politicians to light (as the GET heard several times on-site), the onus is on the authorities to ensure that the media (and citizens at large) indeed have the tools at their disposal to find things out. The current exceptions under the Access to Public Administration Files Act are an impediment to that.

51. The GET was told that in order to facilitate the implementation of the amended Access to Public Administration Files Act, the Ministry of Justice issued guidelines in 2014, administers a web portal containing the legislation, administrative provisions, parliamentary bills and statements of the Parliamentary Ombudsman pertinent to the right of access to public administration files and provides advice to public authorities and others regarding the

[33] See for example the criticism of the OSCE Representative on Freedom of the Media: "OSCE media freedom representative concerned about proposed public information law in Denmark", 22 May 2013.
[34] *Ministerier bruger flittigt kontroversiel mørklægningsbestemmelse*, https://www.information.dk/indland/2015/12/ministerier-bruger-flittigt-kontroversiel-moerklaegningsbestemmelse, 28 Dec. 2015.
[35] See *2016 Annual Report of the Parliamentary Ombudsman* , p. 141-142.
[36] *2016 Annual Report of the Parliamentary Ombudsman*, ibid.

interpretation of the Act.[37] This is to be welcomed. However, given the importance of the issue at stake and the problems remaining five years after entry into force of the amended act, the GET considers that – if the Act itself is not amended to restrict exceptions to the right of access to information and if decision-making on information to be disclosed is left to (at times relatively low-level) civil servants –, additional measures would need to be taken to better equip civil servants with taking correct decisions (and not be overly cautious therein for fear of exposing their ministry or minister). Such measures could for example include a revision of the aforementioned guidelines, further instructions on the application of the law, trainings and/or the appointment of information councillors to help with the decision-making process. In light of the above, **GRECO recommends that, in order to improve public access to information under the Access to Public Administration Files Act, the scope of the exceptions under the Act be restricted or further measures be taken to ensure that the exceptions under the act are applied less frequently in practice.** The Council of Europe Convention on Access to Official Documents (CETS 205), which has not been signed nor ratified by Denmark, and Recommendation Rec(2002)2 of the Committee of Ministers to member States on access to official documents may serve as inspiration in this respect.

Transparency of the law-making process

52. As part of the preparatory work on future legislation, the responsible ministry normally carries out a public consultation on a draft law. To this end, before submission of draft legislation to the *Folketing*, the draft law in question (together with the consultation deadlines and list of authorities, organisations and other parties included in the consultation procedure) is made public via the digital public consultation forum *Høringsportalen* and – at times – on the website of the relevant ministry and/or via newsletters, at the same time as it is sent out for external consultation to a range of authorities and organisations, believed to have a particular interest in the subject matter of the draft law. In most cases this is the first time that a full draft for new legislation is made accessible to the public.

53. When passing the draft law to the *Folketing*, the responsible ministry normally submits the comments received during public consultation to the relevant standing committee with its views to these comments outlined in the explanatory memorandum. Comments sent directly to the *Folketing* – without a simultaneous notification to the responsible ministry – are published on the consultation portal. If draft legislation – either in full or partly – is the result of considerations in a legislative committee or similar arrangement or is the result of inquiries of private institutions or of a public debate, the views expressed in these should be outlined in the explanatory memorandum to the draft law. This is also to be done if the subject of a draft law has previously been discussed in the *Folketing* (e.g. in connection with a proposal for a parliamentary resolution or report from a committee).

54. According to the non-binding "Guidelines for quality in legislation" published by the Ministry of Justice, the timeframe for public consultation must be adapted to the circumstances of each case (complexity of the legislation, specialised agencies to be consulted etc.), but should be sufficiently long to allow consulted parties to produce an adequate reply. The aforementioned guidelines indicate that the consultation should usually last four weeks.

[37] These guidelines can be found at: https://www.retsinformation.dk/Forms/R0710.aspx?id=160676. The web portal on the amended Access to Public Administration Files Act can be found at: https://www.offentlighedsportalen.dk/

55. The GET found this procedure to provide for a solid consultation process and noted that the carrying out of this procedure in the development of new laws seems to be taken seriously by all ministries. However, it also heard that there was a tendency to have a political agreement on the most important features of new legislation before such legislation was made subject to a consultation procedure (which was reportedly the case up to one thirds of the proposed laws on the parliamentary agenda). Consequently, the GET heard, for quite a number of laws that the impact of public involvement has become increasingly limited to technicalities (rather than policy matters), making the public consultation less important for the core of the new legislation. In discussing this issue on-site, it was clear that issues with public consultations are tied in with the issue of bringing transparency in respect of the impact from lobbyists and other third parties (including special interest groups) seeking to influence government policies, as will be discussed further below.

Third parties and lobbyists

56. There are no rules in place to regulate contacts of ministers (or special advisers for that matter) with third parties and lobbyists, other than the general rules on lawful administration, including the rules on conflicts of interest and misuse of confidential information. There are also no reporting or disclosure requirements applicable to those who seek to influence government actions and policies. Lobbying in some form or another (in particular by interest groups) seems to be part of the decision-making process in Denmark, with the intention of creating broad-based support for decisions. Traditional reluctance in Denmark to increase transparency over lobbying and activities of other third parties seeking to influence governmental decision-making appears to be fading slightly however, especially in light of several ministers having become lobbyists after leaving office. The trend of increasing lobby activities has been seen in several European countries and it would appear that Denmark is no exception in this respect. The GET is of the opinion that addressing this issue, in line with relevant Council of Europe standards,[38] is crucially important (including for special advisers, as appropriate) to uphold public trust in democratic decision-making processes. Consequently, **GRECO recommends (i) introducing rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties seeking to influence governmental processes and decisions; and (ii) increasing the transparency of contacts and subject matters concerning lobbying of persons entrusted with top executive functions.**

Control mechanisms

57. All ministries are required by law to perform internal controls to ensure that the financial statements of the ministry are accurate and that the transactions are legal. To this end, the Ministry of Finance has provided instructions for designing internal controls, which follow the principles of COSO.[39] The Ministry of Finance receives a declaration from the

[38] Recommendation CM/Rec(2017)2 of the Committee of Ministers on the legal regulation of lobbying activities in the context of public decision-making.

[39] COSO, the Committee of Sponsoring Organisations of the Treadway Commission, is a joint initiative established in the United States by five auditing and accounting organisation to combat corporate fraud. COSO's original framework identified five components of internal control, which became widely adopted for use in assessing the effectiveness of internal controls. Its more recently updated framework identifies 17 principles, based on these five components (i.e. Control Environment, Risk Assessment, Control Activities, Information and Communication,

ministries stating that they have the necessary procedures in place. It is the task of the Auditor General's Office to ensure that this information is correct.[40] The accounts of the ministries are calculated monthly. They are not published but the Auditor General's Office has access to these monthly accounts (and, for most institutions, can access single transactions in an on-line database).

58. As already mentioned above, external control is carried out by the Auditor General's Office, on behalf of the *Folketing*. The Auditor General's Office is an independent auditing authority, headed by the Auditor General, who is appointed by the speaker of the *Folketing* on the recommendation of the Public Accounts Committee. Even if the Office structurally falls under the *Folketing*, it is independent of the government and parliament and no ministers or members of parliament can influence the audit of the state's accounts. The Auditor General's Office reports to the Public Accounts Committee of the Parliament. The Public Accounts Committee can ask the Auditor General to look into certain issues, but the Auditor General decides for him-/herself if and how an audit will be conducted and reported to the Committee.

59. In turn, the Public Accounts Committee, which comprises six members (both members of parliament and non-parliamentarians) appointed by the *Folketing* for a four-year period, is tasked with reviewing the state's accounts, checking that accounts have been kept correctly and making sure that there is an appropriation for all the money the state has spent. The Committee reviews the annual report of the Auditor General's Office (containing statements of this Office regarding the financial audit of each individual ministerial area as well as a number of interdisciplinary investigations and declarations) and presents its findings to the *Folketing.* Officially the state accounts must be presented to the *Folketing* before the end of June, but usually it takes about 18 months before the Parliament approves them. Only after the Public Accounts Committee has published its report (containing a follow-up on reports of the past year, statements of ministers on the content of the report, memoranda of the Auditor General's office and remarks of the Committee itself) can the state accounts be forwarded to the *Folketing*, which either approves or rejects the accounts. In addition, it can ask the Auditor General's Office to investigate various matters. The Committee is the only authority that can ask the Auditor General's Office to perform certain auditing tasks.

60. Moreover, the Parliamentary Ombudsperson (the Ombudsman) exercises non-financial external control over the administration, either on the basis of complaints or *ex officio.* S/he is elected after each general election (or when a vacancy otherwise occurs) by the *Folketing*. S/he however works independently from the *Folketing* when exercising control over state, municipal and other public administrative authorities on behalf of the public. The *Folketing* cannot direct the Ombudsman to take up a specific case, but can request the

and Monitoring Activities). Initially developed for the private sector, it is also widely used in the public sector, translated by INTOSAI "Guidelines for Internal Control Standards for the Public Sector" (INTOSAI GOV 9100, revised 2004).

[40] The GET was informed that, until 2016, ministries had the possibility of making arrangements with the Auditor General's Office to establish an in-house unit, which would report to the management and the Auditor General's Office. The reports of these in-house units would then form the basis of the audit done by the Auditor General's Office. Since the autumn of 2016, the Auditor General's Office has suspended this arrangement for so-called "on-budget entities" and thus performs all auditing itself. Ministries are however still required to perform internal controls, but these no longer form the basis for the audits by the Auditor General's Office.

Ombudsman to look into a certain thematic area (and can assign special mandates to the Ombudsman to this end[41]).

61. The Ombudsman can take up cases on its own initiative (for example, issues that have been the focus of media attention) or on the basis of a complaint. Any person may lodge a complaint – free of charge – with the Ombudsman, but complaints concerning matters which may be appealed to another administrative authority cannot be lodged with the Ombudsman until that authority has made a final decision in the matter. The Ombudsman also does not have any jurisdiction once a case has been brought before a court. A complaint cannot be anonymous, but the Ombudsman can deal with anonymous reports, in which case it is no longer considered a complaint as such, but can lead to an *ex officio* investigation by the Ombudsman. The Ombudsman receives between 4.000 and 5.000 complaints a year. In following up on these complaints or its *ex officio* cases, the Ombudsman may state criticism and recommend that the authorities reopen a case and possibly change their opinion (or practice), but cannot make decisions him/herself. The GET was pleased to learn that since 2012 there has not been a single case in which the authority in receipt of a recommendation by the Ombudsman has not followed this (with often people perceiving the recommendation as legally binding, primarily on the strength of the expertise of the Ombudsman's Office).

62. Finally, scrutiny of the executive power is naturally one of the core functions of the *Folketing*. The authorities indicate that while the Danish Constitution describes in detail how the *Folketing* must deal with draft laws, it does not outline in similar detail how it is to exercise its control of the government. Control by the *Folketing* is based on the "parliamentary principle", which means that the *Folketing* can adopt a vote of no-confidence against a minister or the Prime Ministers to express its distrust of a minister or the government as a whole. If the *Folketing* adopts a vote of no-confidence against a minister, s/he is obliged to resign. In practice however if such a vote appears to be gathering a majority of the *Folketing*, the minister in question will hand in his/her resignation or be dismissed by the Prime Minister first.[42] If the *Folketing* adopts a vote of no-confidence against the Prime Minister, the government must resign or call for a general election. As indicated before, it is however extremely rare for the *Folketing* to actually adopt a vote of no-confidence (see paragraph 26 above).

63. In carrying out its control function of the government, the *Folketing* may ask questions to ministers, by interpellations or through one of the 25 Standing Committees of the *Folketing* and may set up special investigation committees. The authorities indicate that more than 15.000 questions are put to ministers a year. Questions can be submitted to the minister in writing[43] or orally during the weekly Question Hour in the *Folketing*. Interpellations are used when one or more members of parliament wish to discuss a societal problem, creating a debate on broad political issues of a more general character. There are typically around 40-60

[41] The special mandates of the Ombudsman include the National Preventive Mechanism (under the UN Optional Protocol to the Convention against Torture), forced returns (as a result of the EU Directive), children's rights, and access to public buildings for people with disabilities and taxation issues.

[42] For example, in 2006 a minister submitted his resignation to the Prime Minister in order to avoid a formal vote of no-confidence. He was reappointed as minister in 2008 in a different field of responsibility.

[43] The authorities indicate that in 2016/2017, ministers were asked 1 584 questions in writing of which 655 received an oral reply.

interpellation debates a year (with usually each lasting several hours).[44] The Standing Committees of the *Folketing* can also put questions to ministers, which are to be answered orally or in writing. When a minister does so orally at a committee meeting, this is known as a "consultation", which can be open to the public and are usually broadcast live on the *Folketing*'s television channel and website. In 2016/2017, 958 questions were answered orally at a consultation.

Conflicts of interest

64. The main regulation on conflicts of interest can be found in Section 3 of the Public Administration Act, which provides that any person working for a public administration (which includes ministers, state secretaries and special advisers) shall be disqualified from being involved in a particular matter, if s/he, his/her spouse, a relative or a person related by marriage[45] has financial interests in the outcome of the matter (or has previously represented someone with such interests), if s/he serves in the management or is otherwise closely involved in an enterprise, an association or other private legal entity which has a particular interest in the outcome of the case, if the matter concerns a complaint about or exercise of control or supervision of another public authority and the person has previously, when serving for that other authority, been involved in the decision or the enforcement of measures related to the matter in question, or if there are other circumstances which are likely to raise doubts as the impartiality of the person in question. No such disqualification has to take place, if the nature or strength of the interest is such that there would not be any risk that the decision will be affected by extraneous considerations.

65. A person working for a public administration body who is aware of circumstances which may give rise to a conflict of interest is, pursuant to section 6 of the Public Administration Act, required to notify his/her superior as quickly as possible, unless the circumstances are of no significance. Whether grounds exist for a person's recusal is to be decided by the public administration body in question. In such cases, the person in question may not be further involved in processing or determining whether grounds for recusal exist.

66. The GET was informed that even if the wording of the provisions above seem to apply to persons working for public authorities only and not to ministers as such, these provisions are in fact also applicable to ministers. If there are circumstances giving rise to a conflict of interest involving a minister, the minister in question is to contact the Prime Minister to have a matter officially (by royal resolution) transferred to another minister. The GET was informed that the Prime Minister was indeed occasionally contacted on such matters. For example, in 2014, the former Prime Minister transferred the responsibility for deciding on an appeal on free legal aid from the Minister of Justice to the Minister of Economic Affairs, due to the personal relation of the Minister of Justice with one of the parties; in 2017, the Prime Minister transferred the responsibility for deciding on a possible appeal in a lawsuit from the Minister of Economic Affairs to the Minister of Justice, due to the personal relation of the Minister of

[44] Following an interpellation debate, the Parliament may adopt a resolution on debated subject, which can take the form of a request, an expression of criticism or even a vote of no confidence against a minister or the government as a whole, in which case the government has to resign. In response to criticism, the governmental parties can react with a "counter motion" expressing satisfaction or only mild criticism of the government.

[45] Section 2, paragraph 2 of the Public Administration Act describes this as "his/her spouse, a relative or person related by marriage in the direct line of ascent or descent or related in the collateral line as close as nephews or other closely related persons".

Economic Affairs with the complaining parties family. It would furthermore also be common practice that the responsibility for processing applications for support of a political party would be transferred to another ministry, when the responsible minister is a member of the applicant party.

67. Leaving aside that the wording of the Public Administration Act does not seem readily applicable to ministers and that this Act is not provided as part of the handbook provided to new ministers[46], the GET's main issue with the abovementioned provisions is that it leaves a lot of discretion to ministers on whether to report a potential or apparent conflict of interest and whether to recuse him/herself from decision-making, without giving much guidance on how to decide. In addition to this, the Public Administration Act does not contain any enforceability measures. In this connection, the GET reiterates the need to have this issue addressed in an enforceable code of conduct (see paragraphs 39-44 above) with further explanations to be provided on situations in which a minister is expected to recuse him/herself.

68. For special advisers and other civil servants further helpful guidance on conflicts of interest is provided in the chapter on impartiality in the Code of Conduct for the Public Sector, explaining also their duty to report and possible disciplinary consequences. Special advisers would be expected to report a potential conflict of interest to the permanent secretary of their ministry.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

69. As indicated before, most ministers in the government (currently 19 out of 22) are simultaneously a member of the *Folketing*. As for other activities, in order to avoid any conflicts of interest, ministers are required to give up any (remunerated or unremunerated) occupation in a private or public company, undertaking or institution upon taking office, pursuant to Article 8 of the Act on Remuneration and Pensions for Ministers. This does not include self-employment[47], financial interests[48], honorary occupations or those associated to a minister's political party. In certain circumstances, a minister may also take unpaid leave.[49] While there are no specific restrictions on the holding of financial interests, such holdings may in some cases be considered to present a conflict of interest under the Public Administration Act (see paragraph 64 above).

[46] The GET was informed that, following the June 2019 elections, information on avoiding conflicts of interest, including the applicable provisions of the Public Administration Act, would be included in the handbook to be provided to new ministers.

[47] For example, currently, the Minister for Business has a one-man tourism business; the Minister for Employment is a farm owner; the Prime-Minister rents out his summer cabin.

[48] Ministers can own shares and bonds in businesses but have to report this – see paragraphs 82-84 below on declaration requirements – and cannot have a managerial position in a company. For example, the current Minister for Higher Education and Science renounced various managing positions in companies, but retained a large number of shares.

[49] For example, the current Minister for Business has taken unpaid leave from his position as lecturer at the Copenhagen Business School.

70. Exceptionally – with approval of the Prime Minister – a minister may retain an occupation if the Prime Minister considers that this will not prejudice his/her duty as a minister or his/her relationship with various branches of public administration. Usually, the Prime Minister would grant permission to more permanent affiliations in which a conflict of interests is unlikely to arise (for example, writer/columnist for a newspaper), but has not granted permission in a number of other cases.[50] In such cases, the Prime Minister will notify the Standing Orders Committee of the *Folketing* without delay (and will also do so in cases in which a minister has been allowed to take unpaid leave from his/her other occupation). The Committee may, within 14 days of receipt of the notice, refuse to allow the minister concerned to continue to carry out such occupation. After the expiration of this period, the Prime Minister will inform the speaker of the *Folketing* of the occupation the minister in question is authorised to undertake. A minister is to refrain from taking up any new occupation during his/her time in office. Cases of doubt are to be submitted to the Prime Minister in order to clarify whether the activity in question constitutes an occupation pursuant to Article 8 of the Act on Remuneration and Pensions for Ministers. While the GET was not made aware of the origins of what appears to be a sound regulation of incompatibilities (and in particular why this would be regulated in so much more detail than some other integrity issues), it welcomes the system in place, and in particular the attention paid to potential conflicts of interest therein.

71. Even if special advisers are not employed under the Civil Service Act, the principles contained therein also apply to special advisers, meaning that secondary employment would be allowed as long as it is compatible with the position of a special adviser. Further guidance is provided by the Code of Conduct in the Public Sector, which *inter alia* outlines that secondary employment should not pose a potential conflict of interests, require too much of the civil servant's labour input or conflict with requirements as regards dignity. Civil servants are not required to report their secondary employment, but must provide information on this if so requested. The Ministry of Finance has prescribed that all civil servants on pay grade 38 and above are to report their secondary employment, which would for example include permanent secretaries (but not special advisers). In this regards, the Danish authorities may wish to regulate this issue further in respect of special advisers, with for example a similar approval mechanism as is in place for ministers.

[50] In 2017, a minister was not granted permission to take an unremunerated seat on the board of directors of a high school, as this would entail economic and legal obligations for the minister and would make the minister responsible to the Minister of Education for the operation of the high school; in 2017, a minister was not granted permission to take up a unremunerated seat on the board of directors of a non-governmental organisation (foundation), as it was not clear whether this should be considered to be an occupation under Article 8 of the Act on Remunerations and Pensions for ministers; in 2015, a minister was not granted permission to be appointed as a professor, as it would look the minister had taken up an occupation.

Contracts with state authorities

72. There are no specific rules on entering into contracts with state authorities, besides the general rules on conflicts of interest and incompatibilities, as well as rules on public procurement.

Gifts

73. The GET was told that in addition to the provisions of section 144 of the Criminal Code (i.e. those gifts and other benefits which can be understood to be received, demanded or accepted "unduly" and thus constitute bribery), ministers' acceptance of gifts is to some extent governed by general principles of administrative law, in particular impartiality. These general principles of administrative law – as interpreted by the Parliamentary Ombudsman – entail that ministers would in general be obliged to refuse benefits, which – given their nature or the context in which they are granted – may give rise to any conflict of interest. Therefore, ministers would not be able to receive gifts of significant monetary value, with the exception of gifts offered in the context of foreign affairs. Special guidelines apply to the latter, which provide that gifts (regardless of their value) offered when foreign dignitaries visit Denmark or when a minister travels abroad in an official capacity can be accepted, if it would be considered rude or lead to disappointment of the foreign guest if the gift is refused or returned. The minister in question can however not keep the gift him/herself: the gift has to be kept and/or displayed by the ministry. It was noted to the GET that the abovementioned rules and principles only apply to gifts received by ministers in their capacity of minister.

74. Gifts other than those received in the context of diplomacy, which would not be of any significant value, can be accepted, but have to be registered and disclosed. To this end, a political agreement on a new transparency scheme for ministers' expenses and activities was adopted on 30 April 2009. This agreement meant that ministries must publish information on ministers' representation expenses, travel expenses, events of an official representative nature, official activities and received gifts. On this basis, the Prime Minister's Office issued guidelines in June 2009, which provides that each ministry must register all gifts received by their minister each month and make this public on the "open scheme" website , with information about the donor and occasion at which it was received, together with a brief description of the gift. Honorary medals and items ordinarily received as part of the ministry's general administrative activities (e.g. art catalogues, reports etc.) do not have to be disclosed. The GET was provided by an overview of the received gifts in 2018, which mostly includes such items as books, chocolates and wine. However, it was also made aware of certain controversies surrounding gifts in the context of political discussions on fisheries quotas, which show that some further guidance on this issue would be welcome to be provided in the earlier-mentioned code of conduct, also when it comes to the distinction between gifts received as a minister (or member of the *Folketing*) and a party leader.[51]

[51] The GET heard that the Prime Minister was summoned to a parliamentary hearing over a gift in the form of a stay in a holiday villa to the value of 10.000 DKK (approximately 1.340 EUR) by a fishing magnate and a donation of 190.000 DKK (approximately 25.400 EUR) by a fisheries interest group to a charity founded by the Prime Minister and now run by his wife. It would appear however that the gift and donation were received at the time when he was a member of the *Folketing* but not a Prime Minister yet.

75. Similarly to gifts, a minister's participation in official representatives events (events in which the minister is invited to participate in his/her capacity as a minister and/or a representative of the government, such concerts, football matches and movie premieres) are subject to registration.

76. As regards special advisers, even if there exists no legislation (other than those related to bribery) specifically prohibiting the acceptance of gifts and other benefits by civil servants, the Code of Conduct in the Public Sector provides as a basic principle that public employees are not allowed to accept gifts or other benefits from citizens or enterprises in connection with their work (except for exceptional circumstances, depending on the nature of the gift or benefit and the context in which it is offered). In case of doubt, the public employee should discuss this matter with his/her manager. The Code gives further guidance on this matter, including on such issues as participation in events, paid trips and other benefits (such as prizes).

Misuse of public resources

77. Rules and guidelines relating to representation, official journeys and the use of the ministerial car are part of the handbook provided to ministers. As per the abovementioned transparency scheme, ministers' representation expenses, travel expenses, participation in events of an official representative nature (etc.) have to be registered on the open scheme website, with a view to providing more transparency on the use of public resources. Criminal misuse of public resources constitutes a criminal offence (e.g. fraud, embezzlement, abuse of position or breach of trust, pursuant to sections 155, 278, 279 and 280 of the Criminal Code respectively).

78. For special advisers, further guidance is provided in the Code of Conduct for the Public Sector, which discusses various procurement rules, representation expenses and travel expenses.

Misuse of confidential information

79. The duty of confidentiality follows from section 152 of the Criminal Code, which provides that any person who performs or has performed a public function or office and unduly discloses or uses confidential information imparted to him/her in the course of his/her duties can be sentenced to a fine or up to six months' imprisonment. Similarly, section 27 of the Public Administration Act provides that any person employed by or acting on behalf of a public administration body is subject to a duty to confidentiality (making reference to the aforementioned section 152 and sections 152c-f of the Criminal Code). For special advisers, the duty of confidentiality is further outlined in the Code of Conduct for the Public Sector.

Post-employment restrictions

80. There are no post-employment restrictions applying to PTEFs. The authorities indicate that in 2016, the *Folketing* discussed a motion regarding the introduction of "waiting-periods" for former ministers when taking employment in the private sector as lobbyists. However, the

motion became void.[52] Ministers are nevertheless required to declare any financial agreements with future employers (see paragraph 82 below on declaration requirements).

81. In discussing this issue on-site, the issue of "revolving doors" seemed to be regarded mostly as a positive thing, in that ministers would bring useful experiences and knowledge to the public sector and the government would not be seen to govern from an ivory tower or as having lost touch with reality. The GET is of the opinion that such a positive view does not have to stand in the way of regulating risks associated with this issue, in particular with a view to preventing conflicts of interest and potential misuse of information. The declaration of financial agreements with future employers is, in the view of the GET, in this respect too limited, in particular as it does not clearly address the period of negotiations before an agreement has been reached (other than through the general rules on conflicts of interest) nor does it address the period thereafter in which particular information from the former position or privileged access to contacts in the former work place can be used to the disadvantage of the public interest. For special advisers, there at least seems to be a short cooling off period, in that they are dismissed (but still paid) when an election is called. In the opinion of the GET, there is no one best way to address potential integrity issues arising out of the movement of individuals in and out of the government, but measures could include a cooling-off period, a restriction on certain types of activity or a mechanism from which ministers and, as appropriate, special advisers must gain approval or advice in respect of new activities following public service. In light of the foregoing, **GRECO recommends introducing rules to deal with the employment of persons entrusted with top executive functions following the termination of their service in the public sector.**

Declaration of assets, income, liabilities and interests

Declaration requirements

82. Since 2005, based on guidelines issued by the Prime Minister's Office, all ministers are required to declare their financial interests on the basis of a standard form (provided on the website of the Prime Minister's Office). The scheme is not based on legislation, but successive governments have complied with the regime as mandatory. The declarations are to include occupations (held currently and in the past 5 years), self-employment with an annual turnover of more than 50.000 DKK (approximately 6.700 EUR), corporate interests of more than 50.000 DKK (approximately 6.700 EUR) (including current investments), financial agreements with former and/or future employers, membership of associations. The declarations also include remunerated positions, revenue-making activities and corporate interests of a spouse or partner. The forms have to be submitted to the Prime Minister's Office within a month of taking up office and updated annually and/or in the event of any significant changes. In addition, as indicated above ministers are on a monthly basis to declare gifts they have received, participation in official representative events and travel expenses incurred by him/her and his/her spouse or partner. Ministers who are also members of the *Folketing* are not part of the declaration scheme of the *Folketing*.

83. The GET welcomes that since the regime was introduced in 2005 all ministers in successive governments have complied with the requirement to declare their financial

[52] According to Section 41 of the Constitution, any motion which is not finally passed by the end of the parliamentary year (i.e. the first Tuesday of October) will automatically become void.

interests and that the information contained in the declarations is published on the website of the Prime Minister's Office). Unlike the regime in place for members of parliament, this explicitly includes certain financial interests of spouses / partners.

84. Notwithstanding these positive elements, the GET takes that view that the current declaration system leaves some room for improvement, similar to some of the comments it has already made in respect of the declaration scheme for members of parliament in the Fourth Round Evaluation Report. First of all, even if since 2005 all ministers in successive governments have complied with the requirement to declare their financial interests, in view of the GET this can change over time, especially if more items are required to be made public. It would therefore be appropriate to make this system mandatory and enshrining it in a regulation rather than the current guidelines issued by the Prime Minister's Office. Secondly, the declarations do not contain any information on ministers' assets (or changes therein over time), debts and other liabilities. Thirdly, apart from listing the value of corporate interests of more than 50.000 DKK (approximately 6.700 EUR), the declarations do not include quantitative information, not even approximate figures and only lists the items as such. Finally, in view of the GET there could be good reasons to consider extending a requirement to declare financial interests to special advisers, given that the type of information available to them and the matters they may be called upon to assist the minister with can almost be as broad as those of the minister him/herself. The declarations may *inter alia* be useful in identifying potential conflicts of interest in their work. In view of this, **GRECO recommends (i) enshrining in regulation or legislation an obligation for members of the government to publicly declare their assets, income and financial interests; (ii) that quantitative data on income as well as data on assets and significant liabilities is included in the financial declarations; and (iii) that it be considered to oblige special advisers to declare their financial interests publicly on a regular basis as well.**

Review mechanisms

85. There are no specific mechanisms to review the completeness and accuracy of the abovementioned declarations, but information regarding ministers' financial interests is public and therefore subject to media scrutiny. Ministers bear (political) responsibility for the accuracy of the information they provide in their declarations.

86. The GET acknowledges the traditional reliance in Denmark on transparency and media scrutiny to hold politicians accountable and notes the belief that control – of, for example, the declarations of financial interests by ministers – would amount to bureaucracy. Nevertheless, it is of the opinion that some kind of review of the information provided by public authorities would be logical, in that it provides additional safeguards and at the very least ensures that the public has access to accurate information. Therefore, **GRECO recommends that declarations submitted by persons entrusted with top executive functions be subject to substantive control.**

Accountability and enforcement mechanisms

Criminal proceedings and immunities

87. Ministers enjoy no immunities (which is also the case for special advisers), except for those ministers who are simultaneous members of the *Folketing*, in which case section 57 of the Constitution applies providing "no member of the *Folketing* shall be prosecuted or imprisoned in any manner whatsoever without the consent of the *Folketing*, unless s/he is taken *in flagrante delicto*." Such consent is given via a plenary vote.[53]

88. Ministers do however enjoy certain procedural privileges. In accordance with section 16 of the Constitution, the government[54] or the *Folketing* have the authority to impeach a minister for "maladministration". In these cases, abuse of office offences pursuant to sections 155-157 of the Criminal Code do not apply. All criminal offences related to a minister's duties, which would include corruption offences in certain circumstances, would be heard before the Court of Impeachment, a special court comprising up to 15 Supreme Court judges and a corresponding number of members, elected for six years by the *Folketing* from persons who are themselves not members of parliament (section 59, Constitution).

89. The GET heard that the Court of Impeachment will hear cases in accordance with section 5 of the Ministerial Responsibility Act whereby a minister "intentionally or by gross negligence disregards the duties which are imposed upon him/her by the Constitution or legislation in general or the nature of the post". This includes – according to subsection 2 of section 5 –providing "incorrect or misleading information to the *Folketing*" of if s/he is "silent about information which is substantial to a Parliament's assessment of the case". Offences tried by the Court of Impeachment carry a fine or up to 2 years' imprisonment (or if perpetrated by negligence a fine or up to 4 months' imprisonment).

90. The Court of Impeachment decides whether something indeed falls under the Ministerial Responsibility Act or should be referred to an ordinary court (which would adjudicate criminal offences of a minister in his/her private capacity, i.e. those which are not related to his/her ministerial duties). Since the establishment of the Court of Impeachment only five cases have been tried (one case in 1856, two cases in 1877, one in 1910 and for the last time in 1995) and only two ministers have been convicted.[55]

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[53] See in this regard the Fourth Round Evaluation Report on Denmark (paragraph 58) which inter alia indicates that in practice, the Folketing always consents to the prosecution of its members if the prosecution service petitions for such consent, and subsequently the Ministry of Justice informs the Folketing about the final decision of the court.

[54] The Constitution refers to the Monarch in this respect, but in practice this is a governmental prerogative.

[55] The most recent case in 1995 started with a report by the Parliamentary Ombudsman in 1989, which criticised the Minister of Justice for the conduct of his ministry in processing Tamil refugees' applications for family reunification. The *Folketing* appointed a special Court of Inquiry, which published a report in 1993, on which basis the *Folketing* decided to institute proceedings before the Court of Impeachment. The Court of Impeachment subsequently convicted (former) Minister Ninn-Hansen to four months' imprisonment. Mr Ninn-Hansen subsequently contested the legality of the Court of Impeachment before the European Court of Human Rights (ECtHR) claiming his right to a fair trial had been violated. In 1999, the ECtHR rejected his application, indicating that it did not consider that the participation of judges appointed by Parliament pointed in this case to any evidence of a violation of the independence and impartiality requirement under Article 6 of the Convention.

Non-criminal enforcement mechanisms

91. As referred to in this report, there are a number of mechanisms for control over the government in place, such as the *Folketing*, the Auditor General's Office and the Parliamentary Ombudsman. However, other than political accountability subject to parliamentary or public scrutiny there are no non-criminal enforcement mechanisms applying to ministers. Even if the GET fully understands that this is how the system is built, there is a need to further develop rules/guidelines in respect of ministers as a complement to "trust" as one of the fundaments of the system. To this end, it earlier recommended that a future code of conduct would be accompanied by credible enforcement measures.

92. As for special advisers, they are subject to disciplinary sanctions under the Labour Law, which depending on the seriousness of the disciplinary offence can take the form of a warning, reprimand or ultimately dismissal.

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability law enforcement/police authorities

Overview of various law enforcement authorities

93. Law enforcement functions in Denmark are carried out by several distinct authorities, each operating within their own area of competence: the Danish police (which includes the Danish National Police and, as part of that, also the Danish Security and Intelligence Service, *Politiets Efterretningstjeneste* or PET) under the Ministry of Justice, the military police, military intelligence and the Danish home guard under the Ministry of Defence. In addition, a number of other authorities exercise certain law enforcement functions, limited to their distinct competences, which include the tax agencies under the Tax Ministry and the Danish Food Administration and Danish Fisheries Directorate under the Ministry of Food, Agriculture and Fisheries.

Organisation and accountability of selected law enforcement authorities

94. This report focuses on the Danish police. The police in Denmark is a civil organisation, which performs the country's basic law and order functions (including border control and intelligence) on the entire territory of Denmark, including the Faroe Islands and Greenland. Its activities are regulated by the Police Act and the Administration of Justice Act.[56]

95. The Minister of Justice is ultimately in charge of the police authority and exercises his/her powers through the National Commissioner, who is heading the police and the Commissioners of the police districts. The Danish National Police sets the direction and defines the strategies for the entire police service (in close cooperation with the police districts) and advices and supports the local police authorities. As indicated above, the PET (the Danish Security and Intelligence Service) also forms part of the Danish National Police, but in certain situations – due to the special duties of the intelligence service – it reports directly to the Minister of Justice instead of the National Commissioner. The structure of the Danish National Police comprises four divisions: the Police Division, Corporate ICT, Corporate HR and Corporate Governance.

96. There are 12 police districts, in addition to the Faroe Islands and Greenland. At local level the police is integrated with the prosecution service. Each police district is headed by a Commissioner, under whose authority a Commander, Senior Chief Prosecutor and Chief of Staff carry out their work.

97. The police has in total a staff of 16.742 persons (including prosecutors and administrative personnel), of whom 11.146 are police officers.[57] Approximately 2.100 staff members work in the Danish National Police, with in addition some 1.050 staff members working for the PET.

[56] The activities of the police on the Faroe Island and Greenland are however regulated by the Faroe Island Administration of Justice and the Greenland Administration of Justice Act.
[57] Figures of May 2019.

The police in numbers

Staff category	*Total*	*Male*	*Female*	*Male %*	*Female %*
Prosecutors	768	226	542	29%	71%
Police officers	11.146	9.274	1.872	83%	17%
Administrative staff	4.828	1.704	3.124	35%	65%
Total	**16.742**	**11.204**	**5.538**	**67%**	**33%**

98. At local level the police is integrated with the prosecution service, with the 12 Commissioners heading both the local prosecution service and the local police, to allow for close cooperation in criminal investigations.

99. The police belongs to the executive branch and is subordinated to the Minister of Justice. Similar as to what has been described in respect of the prosecution service in the Fourth Round Evaluation Report on Denmark, the Minister of Justice may issue general guidelines on police investigations (e.g. certain crimes being a priority to investigate).[58] The GET was told that in doing so s/he is bound by certain general principles of law, such as legality, equal treatment, the obligation to base decisions on objective reasons and proportionality. Furthermore, the Minister may issue instructions concerning the handling of a specific case, but only in accordance with section 98 of the Administration of Justice Act, which means that the decision must be taken in writing, be reasoned, be included in the case file and communicated to the Speaker of the *Folketing.* In practice, no Minister of Justice has used this power to issue instructions on the handling of a specific case since its introduction in 2005.

100. This power over the police was criticised by GRECO already in its First Evaluation Round Report[59], as it was concerned over the fact that the Minster of Justice can directly interfere in the decision making of the police (and the prosecution service) in individual cases under investigation and/or prosecution, and it considered that it raised doubts as to the operational independence of the police vis-à-vis the political sphere. The GET is also of the opinion that it would be preferable to take the possibility to issue instructions in individual cases away to prevent any impression that political influence might be exerted over the way the police carries out its investigations. It however acknowledges that, following the First Evaluation Round, section 98 of the Administration of Justice was amended in order to introduce the abovementioned conditions in paragraph 3 (i.e. in writing, reasoned, included in the case file and with notification to the Speaker of *Folketing*). It accepts, similarly to what it has done in the Fourth Round Evaluation Report in respect of prosecutors, that safeguards against misuse of this possibility have been put in place.

101. The annual budget of the police as a whole is approximately 10,7 billion DKK (approximately 1,43 billion EUR), of which the budget of the Danish Intelligence Service amounts to approximately 0,9 billion DKK (approximately 120,5 million EUR). The Danish National Police and the police districts have their own budgets, but these have to be managed within this overall financial framework.

[58] See Fourth Round Evaluation Report in respect of Denmark, paragraphs 126 and 127.
[59] See First Round Evaluation Report in respect of Denmark, paragraph 105.

Access to information

102. As described in the first part of this report, under Article 7 of the Access to Public Information Files Act (which applies to all public administration bodies, including the police), anyone may request disclosure of documents of a public administration body. There are however a number of exceptions to this act, which may limit the rights of access to files, if significant considerations to public or private interests after a concrete assessment justifies it, such as files on criminal cases.[60]

103. In April 2017, the Danish National Police issued a guide on the right of access to documents in the Danish police in accordance with the Access to Public Administration Files Act. The guide gives employees in the Danish police further guidance on processing requests for access to public information.

Public trust in law enforcement authorities

104. Since 2012, the Danish National Police has annually carried out a Safety Survey, which *inter alia* measures how safe citizens feel in their neighbourhood as well as citizens' trust in the police per police district and for the police as a whole. In reply to the question "Do you agree to the following statement: I trust that the police will help me if I need it?", 83,5% of respondents replied in 2018 with "yes". Moreover, the 2017 Eurobarometer on corruption indicates that 73% of those surveyed would most trust the police to deal with a complaint about a corruption case (EU average: 60%) and 9% think that bribery and abuse of power in the police and customs is widespread (EU average: 31%).

Trade unions and professional organisations

105. The Police Union is the only trade union specifically for staff members of the police. In addition, several other trade unions have members from within the police.[61] No information was made available to the GET on the number of police staff who are members of trade unions, but this was expected to be a substantial percentage. Denmark has a tripartite system governing the labour market, in which the trade unions' role is to negotiate with the government and employers for favourable terms for their members regarding salaries, pensions and benefits, when entering in collective labour agreements. If integrity policies within the police have consequences for the legal status of police staff, the police union is consulted.

[60] The Administration of Justice Act *inter alia* provides in this respect for the extended right of access to information for parties to a case (be it criminal or civil), rules on confidentiality and the right of any person to access final judgments and orders

[61] These include HK, Denmark's largest trade union for salaried employees, who *inter alia* work as administrative staff in the public sector and has a subsection called *HK Politiet og Anklagemyndigheden* (HK Police and Prosecution), and DJØF, the trade union for Danish lawyers and economists, has a subsection called *Foreningen af Offentlige Anklagere*, which organises prosecutors (who are – as indicted above – integrated with the police at local level).

Anti-corruption and integrity policy

Anti-corruption policy

106. Even though there is no dedicated anti-corruption and integrity policy as such for the police, the current legal texts and guidelines taken together provide a relatively clear cut integrity policy framework applicable to the police. Police officers in Denmark are civil servants and thus subject to the Civil Servants Act (as are obviously other civil servants working for the police), and a Code of Conduct for the Public Sector (which would also be applicable to employees working for the police under a labour agreement) as well as a set guidelines on good behaviour for the police and prosecution service (which is applicable to all staff in the police), as will be further explained below.

Ethical principles / code of conduct

107. Section 10 of the Civil Servants Act (CSA), which provides as a general rule that "the civil servant must conscientiously comply with the rules that apply to her/his position, and both on duty and off duty prove worthy of the esteem and trust required by the position", serves as general ethical guidance for civil servants (which includes all police officers) in the Danish police.[62] This requirement forms the basis for all further rules and guidance, such as the revised Code of Conduct in the Public Sector, and − specifically for the police (and prosecution service) − the new guidelines "Good behaviour in the police and prosecution service", which customises the aforementioned Code of Conduct in the Public Sector to staff of the police (and prosecution service). These guidelines, which saw the light in October 2018 (replacing the publication "Ethics in the police" of 2015), outline the fundamental values of the police and explain the rules on the following of instructions (i.e. what to do when being provided with an illegal order or instruction), freedom of expression, confidentiality, conflicts of interest, outside activities, gifts and other benefits, sound financial management, information security and sets out the consequences for not acting in accordance with the rules set out in the guidelines. The guidelines contain a short description of some "do's" and "don'ts". It explicitly incorporates "Code VII" (see paragraph 39 in the first part of this report) in one of its chapters and makes frequent references to the revised Code of Conduct in the Public Sector (referring readers to the specific chapters in this Code for further explanations), which are both applicable to police officers as civil servants.

108. The new guidelines "Good behaviour in the police and prosecution service" have been handed out to the almost 16.000 police officers, prosecutors and supporting staff in the police and have been accompanied by a large-scale campaign to make its content known, requiring all staff of the police to take a short (30-minute) on-line test on the requirements of the guidelines before the end of 2018.

109. The GET welcomes the new guidelines "good behaviour in the police and prosecution service" (and also the way this has been brought to the attention of police officers, see paragraph 115 below). It consider it useful and practice-oriented guidance in particular with

[62] According to the Danish authorities, although the CSA is only applicable to staff with civil servant status, the requirement to act with decorum will also be applicable also to those employed in the Danish police under a collective labour agreement, based on the principle of good conduct for all employees in the Danish police.

complementary examples of some "do's and don'ts". Taken together with the revised Code of Conduct in the Public Sector, it comprehensively deals with the most pertinent issues.

Risk management measures for corruption prone areas

110. The Danish authorities indicate that the Independent Unit for Supervision and Controlling in the Danish National Police carries out a risk analysis on an annual basis, which focuses on compliance with legislation, regulations and internal rules and builds on in input from selected managers within the Danish National Police and interactions with staff. The risk analysis also takes into account previous analyses by the unit and other bodies tasked with overseeing the police, e.g. the Auditor General's Office. If in that context a particular area is considered to be a risk (be it of inefficiency of administration, lack of compliance with regulations or more in particular prone to corruption) measures will be taken to address this. For example, in 2018, the analysis led to an increased focus on goods taken into custody.

111. While integrity has not been a particular focus of this unit, the GET was told that – following an internal report in the Danish National Police a few years earlier (which criticised the procurement procedures within the police) and the ATEA case involving the procurement of IT equipment (see context) – a number of measures had been and were being implemented to address the identified risks. These measures include the development of new rules and guidelines, *inter alia* providing that all new procurements in the police exceeding a total amount of 100.000 DKK (approximately 13.400 EUR) (excluding VAT) must be done on a written basis, signed by the District Commissioner and Head of Division responsible for the purchase, and carried out in accordance with the instructions of the central unit for procurement in the Danish National Police, the Procurement Centre. Similarly, the procurement of all consultancy services must be discussed with the Procurement Centre in advance and approved by the District Commissioner or Head of Division. The Procurement Centre has also set up a register in which procurement officers and decision-makers in the police are to record close personal relationships with people employed by companies where the police may purchase goods and/or services. Finally, the Danish National Police has strengthened the "multiple eyes principle" (including by having the Procurement Centre providing additional support and oversight for smaller procurement done at local level). In addition, the GET was told that all procurement officers were in the process of being vetted to receive a security clearance to the level "secret".

112. The GET welcomes the measures taken and notes that these can serve as a model for risk assessments in any corruption prone areas in the police going beyond public procurement. In this respect, it encourages the authorities to continue strengthening the capacities of the Independent Unit for Supervision and Controlling (which as of 1 January 2019 also includes a person responsible for the new whistleblowing regulations, see further paragraph 169 below).

Handling undercover operations and contacts with informants and witnesses

113. The conditions for undercover operations, be it by police offers or by using civilians, are governed by section 754a-e of the Administration of Justice Act, which requires a court order for such undercover operations to be carried out.[63] The rules on the use of informants

[63] If there is a risk that the aim of the undercover operation is undercut by waiting for a court order first, the police can go ahead with the operation but must present it to the court within 24 hours. The conditions for use

are described in the "The Public Prosecutor's Announcement on Informants and Civil Agents" (as revised on 26 April 2018).[64] Cooperation with informants must be approved by the responsible person for informants in the police district in question. The informant will be given a specially trained contact person (called a "source handler") and will be registered in a special IT system on informants in the Danish National Police. The "source handler" will in turn have a controller attached to him/her, who approves all meetings between the source handler and the informant before they take place and the reports of these meetings, which will be registered in the aforementioned IT system. Informants can be paid for the information they provide, but they cannot be granted immunity in case they violate the law. The authorities indicate that a new IT system on informants is being set up, with the aim of having better use made of the obtained information and to better control the handling of sources. In addition, the Danish National Police has made a framework agreement and national guidance on source handling.

Advice, training and awareness

114. The authorities indicate that while the Police College does not provide specialised training on integrity and/or corruption prevention, the police make use of broad-spectrum efforts to ensure ethically correct behaviour among staff (including managers). The GET was informed that integrity issues are integrated both in basic and advanced training programmes for staff of the police. Integrity as a topic would also be part of the recruitment interviews and could lead to police officers/cadets not passing the entrance exam for the Police College.

115. More specifically as regards the recent publication "good behaviour in the police and prosecution service", the GET was informed that all managers in the police were required to hand over this publication to their staff and discuss this with them. The publication was accompanied by a brief quiz, which all police staff have been required to complete by the end of 2018. The introduction of "Code VII" in 2015 was accompanied with a special course at the Police College, which is being repeated in 2019 with the provision of a whole-day training session in the districts (7 courses up to 60 participants each). This course will also be continued thereafter for new staff (at least one per year).

116. The GET was also informed that for first-time managers ethics is a separate theme in the training, with specific focus placed on the manager's role as an authority with special ethical responsibility, and that a new leadership course has entered into force on 1 January 2019, in which ethics would feature prominently. Furthermore, managers would be supported with problem-based and case-based teaching to address potentially inappropriate behaviour of their staff with the use of "correctional conversations" at an early stage.

117. Staff of the police can obtain advice on integrity matters and the conduct expected of them by visiting the website of the Danish National Police, the Police College and/or the intranet, by contacting their immediate superior, their staff representative or the Human Resource Partner team (which serves as the immediate contact regarding any human resource

of agents are a well-founded suspicion of an offence being committed (or attempted) for which the term of imprisonment being six years or longer, the use of agents being of decisive importance for the investigation and not increasing the scope or seriousness of the offence. Civilian agents are only to be used if their assistance is modest in relation to the offence.

[64] This "announcement" is not applicable to activities of PET.

related matter).[65] The aforementioned publication "Good behaviour in the police and prosecution service" explicitly recommends talking to an immediate superior or staff representative in case of doubt about the provision described in the brochure. It seems that, due to the traditional open culture in the Danish civil service and the police, staff members generally do not feel uncomfortable raising certain ethical dilemmas with their direct superior. The GET welcomes this, and notes that the possibility of obtain confidential advice from union representatives, the person responsible for the new whistleblowing regulation in the Independent Unit for Supervision and Controlling, the Human Resource Partner Team and other managers (i.e. all persons outside the immediate hierarchy) provides an additional safeguard for individual police staff.

118. As regards the training provided and to be provided, the GET welcomes the awareness-raising efforts on in particular the new publication "Good behaviour in the police and prosecution service", which is a good step in translating this publication to the day-to-day work of the police, and the integration of integrity-related issues in various training courses, including for managers. However, in light of the fact that oversight is first and foremost the responsibility of the supervisor of the staff member concerned and given that staff is encouraged to ask their superior in cases of ethical dilemmas, the GET would expect more focused training on integrity specifically for management in the Danish police. In view of the GET not only first-time managers should be required to follow such training, but this should also be a requirement for other managers in the Danish police. In light of this, **GRECO recommends further developing training particularly focusing on the special integrity requirements relevant for the police and to make such training mandatory for managers in the Danish police.**

Recruitment, career and conditions of service

Appointment procedure

119. The recruitment of new police officers follows an open call for applications, typically three to six months before the start of a semester at the Police College. Applicants for police officers will have to be 20 years' old (having to turn 21 before the start of the semester), have a driving license, Danish citizenship (or have applied for Danish citizenship), high school education, be in good health and physical condition. The GET was also told that having a criminal record was not an automatic cause for exclusion: it would all depend on the circumstances of the case (i.e. type of offence, seriousness, time passed since the offence (etc.). The application criteria are not laid down in law.

120. Applications are to include a signed declaration whereby the applicant (and all individuals over the age of 18 residing at the same address as the applicant, as well partners not residing at the same address) consents to the collection of personal information from all registers held by the police. Since 2015, all newly recruited police students will have to receive a security clearance by the PET to the level of "confidential".[66] The information that is checked includes all registers held by the police, but for the level of "confidential" this would – for

[65] All police districts and the five areas under administration of the Danish National Commissioner have their own Human Resource Partner, who can be contacted through the police intranet.
[66] There are four levels of security clearance: Restricted, Confidential, Secret and Top Secret.

example – not include information of the tax authorities, unless there are indications that the applicant is in financial difficulties. The security clearance is a condition for employment.

121. The best-qualified applicants will be invited to continue the recruitment process with additional physical, health and performance assessments (including interviews, in which applicants' personal characteristics including their integrity is assessed), following which a vetting process is initiated. The GET was informed that in 2017 there were 2.234 applicants to the Police College of which 753 were admitted. Out of those, 157 were women. There are few drop-outs: around 98% of applicants complete the Police College.

122. It takes two years and four months to become a police officer.[67] The first 11 months are spent at the Police College.[68] This is followed by an 11 months' internship in a police district and a final six months of seminars at the Police College. From the day of starting Police College, candidate police officers are tenured civil servants on probation, and will be appointed to vacant positions of police officers upon graduation from the Police College. Throughout their time at the Police College, candidate police officers are evaluated at different times and are after subsequently appointed for an indefinite period of time.

123. As indicated above, there are four levels of security clearance: restricted, confidential, secret and top secret. Vetting is carried out by the PET, which endeavours to do so within six weeks. As indicated before, new police officers are to be cleared to the level of "confidential", which includes a check of all available police records and would for example include such issues as known connections to motor gangs by the candidate officer or their partners. Higher levels of clearance (i.e. "secret" and "top secret") are needed for certain types of positions within the police with access to more sensitive and secret information. Information from the tax authorities is generally only obtained for the level "top secret", but an exception is made for other classification levels if there are indications of financial difficulties involving the person concerned. Following the initial security clearance for admission to the Police College, security clearances must subsequently be renewed (every five years for the level "top secret" and every ten years for the level "secret" and "confidential") and are a condition for continued employment.

124. PET automatically receives notifications on any new entries in a police register concerning a staff member of the police (i.e. traffic violations or more serious issues) as well as any on-going disciplinary proceedings and decides whether the security clearance for the person in question can be upheld or not. The GET learned that in case a police officer does not receive the necessary security clearance from PET, s/he can appeal to the Ministry of Justice.

125. In the view of the GET, the screening mechanism of police officers has much improved with the introduction in 2015 of standard vetting by the PET of all police officers upon

[67] In addition to police officers, the Police College also trains police cadets (who are similarly recruited to police officers with the exception that they can be 18 years' old). Police cadets are employed under a collective labour agreement, and deal with border control, transport, distribution tasks and guarding. It takes six month to become a fully trained police cadet. Within six years of working for the Police, police cadets are required to complete a training programme which would transfer them to the training to become police officers (if they meet the formal requirements to become a police officer). If they do not pass this training programme, they will remain police cadets.

[68] Teaching themes in the first semester include patrols, driving techniques, reporting, psychological issues, physical education, use of force and conflict management, forensics and shooting techniques.

recruitment to the level of "confidential" and a clear classification of security levels for different positions within the police. It also welcomes information that procurement officers within the police were all in the process of being vetted to the level of "secret". It was thought that police officers would likely be vetted more often than every ten years, as they would switch to a new post requiring a different security level and therefore be re-vetted. Nevertheless, the GET believes that in practice it may indeed take ten years before they are re-vetted at the same level or before they move from a position with a "confidential" to "secret" or from "secret" to "top-secret", in particular as the level of "confidential" does not include a wider check of for example the economic situation of the police officer in question. Notwithstanding the possibility of carrying out random checks (which the GET was told would happen if there were specific indications that matters of concern existed), the GET is of the opinion that vetting at regular intervals is an indispensable tool to prevent attempts to corrupt officers already in post and who in their daily work may be in contact with people linked to criminal networks and considers that in certain situations the current re-vetting intervals could be too long. In light of this, the GET encourages the Danish authorities to keep the need for shorter re-vetting intervals under review.

126. As indicated under paragraph 97 above, there are 1.872 female police officers in the Danish police, which corresponds to only 17% of the total number of police officers. The GET was furthermore told that in 2018 women accounted for around 25% of the persons admitted to the Police College. In discussing diversity on-site, the GET did not get the impression that this was regarded as an issue that should warrant much further attention. The GET was informed that in recruiting new police officers, the Danish police was bound by general principles of law, such as equal treatment, the obligation to base decisions on objective reasons and proportionality, and that the Danish National Police focuses on strengthening the representation of underrepresented groups in the police. However, other than some efforts to show more female officers and officers with a minority background on police brochures and on social media, the GET was not made aware of any concrete measures to improve the gender balance (or diversity in general) in the Danish police. Specifically as regards women, some of the GET's interlocutors remarked that equal treatment, in particular when it came to taking on shift work, could make the work in the police less attractive for women.

127. In the GET's view, the police should represent, as much as possible, society as a whole. Seeking a better gender balance is not only a requirement of equality under international law, but diversity in the police in general, including at managerial level, can have positive effects on the profession as a whole (e.g. in contacts with the public, in creating a more heterogeneous environment in some parts of the police which could counter a possible code of silence, further developing multiple-eyes routines etc.). In light of this, the GET considers that greater efforts could be made at all levels of the police, not just as regards women but also other underrepresented groups. Consequently, **GRECO recommends that further measures be taken to strengthen the representation of women and other underrepresented groups at all levels in the Danish police.**

Performance evaluation and promotion to a higher rank

128. Annual development and assessment interviews of staff of the Danish police are conducted by the immediate supervisor of the staff member concerned, as well as a staff representative. Additional performance evaluations are carried out prior to the possibility of obtaining a higher salary placement, at the end of an internal development or temporary

function (i.e. a probation) in a management position of a minimum of 6 months, or if deemed necessary for the assessment of the staff member's continued employment in the police.[69]

129. Appeals against the outcome of a performance evaluation can be submitted to the chairperson of the Complaints Committee within two weeks of the person evaluated have received notification of its outcomes.[70] A negative assessment can lead to the development of a plan to implement improvement goals, a warning of future consequences for employment (if the performance does not improve), relocation to another job or another place of employment and ultimately dismissal. Police officers can be demoted following a negative assessment (or on their own application).

130. All vacancies within the police are published internally and police officers advance their careers by applying to such positions following the publication of a vacancy. Applicants undergo an interview by a panel (including representatives from the human resource department and – for certain vacancies – representatives of the Danish National Police) and, if necessary, a test. Positions have standardised training and experience requirements according to the level of the position, for example the completion of an internal leadership programme, a master degree obtained outside the police or experience abroad (as appropriate).

Rotation

131. In the Danish police, there is no system of regular rotation. There is no minimum tenure for specialist posts and only the posts of National Commissioner and Commissioners carry a maximum tenure of nine years (six years, which can be renewed once with three years).[71]

Termination of service and dismissal from office

132. Police officers can be dismissed by the Minister of Justice following a disciplinary or so-called discretionary procedure. Dismissal following a disciplinary proceeding can take place in cases of misconduct on duty, a criminal offence or if the police officer in question is regarded to be unfit to retain his/her post as a result of irregularities. Discretionary dismissal can take place if a staff member is not (or no longer) capable of meeting the demands of the service or based on difficulties in cooperation-related matters, in which case a three months' notice period is to be observed pursuant to section 28 of the CSA. Decisions by the Ministry of Justice on dismissals can be contested before the courts. Newly recruited police officers, who are still on probation can be dismissed by the Danish National Police.

[69] An evaluation comprises an assessment of personal and professional skills, general understanding (of the police organisation and its culture, as well as of the role of the police in a democratic society), and – when evaluating managers – management competencies and capabilities.

[70] Complaints committees have been set up in each police district and at national level to deal with complaints about evaluations and comprise the Chief of Staff / Head of Division, a human resources representative and a representative of the employee who lodged the complaint (different from the representative who participated in the evaluation). Complaints against the outcome of an evaluation of a police student are handled by a different Complaints Committee, comprising the Head of the Police College, the head of primary education and the chairman of the police student councils.

[71] A (former) National Commissioner or (former) Commissioner may however reapply to his/herr (former) position after this period, if there is a vacancy.

Salaries and benefits

133. In the Danish police, gross monthly salaries for police officers at the beginning of their career (after finishing police training) are 25.000 DKK (approximately 3.350 EUR) and 22.000 DKK (approximately 2.950 EUR) for police cadets. Gross monthly salaries will increase to 32.700 DKK (approximately 4.380 EUR) after 27 years of service or upon 57 years' of age, if certain criteria are met and if the person in question follows the career track of a police officer. Police officers also have the possibility to become specialists (called advisers or senior advisers), who receive a gross monthly salary in a range of 32.700 to 35.700 DKK (approximately 4.380 to 4.780 EUR), or leaders, who receive a gross monthly salary in a range of 37.500 to 67.200 DKK (approximately 5.020 to 9.000 EUR) depending on their rank. Additional allowances are provided for night shifts, over-time etc. In addition, the GET was informed that small performance bonuses would be granted annually in an amount of 6.000 to 25.000 DKK (approximately 800 to 3.350 EUR), for which staff members would be nominated by their managers to the human resources department. This would additionally be negotiated with a local representative of the trade union. Information on the recipients of these performance bonuses would be published on the intranet of the Danish National Police.

Conflicts of interest

134. As outlined in the first part of this report (see paragraphs 64-65 above), all persons working for public administration have a duty to avoid conflicts of interest. To this end, section 3 of the Public Administration Act, provides that persons working for the public administration (both police officers and other staff employed by the Danish police) are disqualified from handling a specific matter if 1) s/he (or her/his spouse or close relative[72]) has a particular personal or financial interest in the outcome of the case or has previously represented someone with such interest, 2) s/he services in the management of otherwise closely involved in an enterprise, an association or other private legal entity which has a particular interest in the outcome of the case, 3) the case concerns a complaint or the exercise of control or supervision of another public authority, and the relevant person has previously, with such authority, been involved in that decision or the enforcement of measures concerning the subject matter of the case, or 4) there are other circumstances which can raise doubts about the impartiality of the person concerned. Only if the nature or level of importance of the interest, the nature of the case or the relevant person's functions in relation to the case are such that they are deemed to raise no risk that the determination of the case may be affected, a person does not have to disqualify themselves from the case.

135. If a person working for the police is aware of circumstances which may give rise to a conflict of interests (or in other words: a situation that should make him/her disqualify him/herself from the case) s/he is to immediately notify his/her supervisor, unless it is obvious that the circumstances are of no significance. The supervisor will decide if the employee's interests may or may appear to influence the case concerned and consequently disqualify him/her from participating in the case.

136. The publication "good behaviour in the police and prosecution service" furthermore outlines that police officers are to be and appear to be impartial, requiring a person to recuse

[72] This is described in section 3 as "a relative or a person related by marriage in the direct line of ascent or descent or related in the collateral line as close as nephews or other closely related persons".

him/herself from participating in certain proceedings if s/he has a serious personal or financial interest in the outcome of these proceedings (or has a close family or other relationship with a person who has such interests in the proceedings). The publication helpfully outlines that this is not an assessment of a person's competence or integrity and that it is irrelevant if the person considers that s/he can keep his/her personal interest out of the case; it is simply a matter of whether it creates doubts about a police officer's impartiality. The publication also contains a few "do's" (i.e. notifying your manager or requesting further guidance from your manager) and "don'ts" (i.e. participating in the consideration of a case even if there are circumstances which may cast doubt on your impartiality, using e-mail for private purposes raising doubt whether the e-mail has been sent by you as an individual or as a police officer or prosecutor, using your police identity card without any official reason etc.).

Prohibition or restriction of certain activities

Incompatibilities and outside activities

137. Pursuant to section 17 of the CSA, accessory activities are allowed as long as the nature of these activities or occupations are compatible with the "conscientious performance of official duties" and with the esteem and trust required by the position".[73]

138. Both the guidelines "Good behaviour in the police and prosecution service" and the "Code of Conduct in the Public Sector" outline similar requirements in this respect: ancillary activities must not give rise to a potential conflict of interest in relation to the primary occupation, must not place too much of a demand on the employee's capacity for work (i.e. be compatible with the work schedule of the organisation and not stand in the way of the person being sufficiently rested when taking up his/her work duties) and must not conflict with the requirement of section 10 of the CSA to "prove worthy of the esteem and trust required by the position".

139. The "Good behaviour in the police and prosecution service" guidelines furthermore specify that police staff holding security level "secret" or "top secret" are required to report their intent to take on secondary employment to their human resource manager. Reporting is also required if a staff member of the police is in doubt whether the outside activity is compatible with his/her service in the police. The guidelines also give examples of ancillary activities, which are categorically not compatible with a job in the police, namely bouncer, taxi driver or security guard. There is neither a general obligation to notify secondary employment if not holding the abovementioned security level nor is there an obligation to ask for prior approval. No statistics are kept on the number and type of ancillary activities carried out by police officers and other staff of the police.

140. Integrity risks associated with certain types of secondary employment, be it risks related to information on police work that is of interest to third parties or conflicts of interest in general, are not limited to holding a position that requires a "secret" or higher level of security clearance. The GET is consequently not convinced that only the required security

[73] Similarly, section 15 of the Salaried Employees Act (which applies to administrative employees in the police) provides that employees are entitled to "perform duties outside the service without the employer's consent", provided that such duties are performed without any interference to the enterprise (or organisation) concerned.

clearance is an appropriate criterion for the obligation to report secondary employment. It takes the view that reporting of secondary activities should be made mandatory and, additionally, subject to authorisation for all staff members of the police, in order to ensure that secondary activities do not adversely impact the exercise of the staff member's functions and do not represent a conflict of interest. Systematic follow-up should be carried out to ensure that the circumstances of approved applications are still applicable and that refusals have been heeded. Consequently, **GRECO recommends developing a streamlined system for authorisation of secondary activities within the police, which is coupled with effective follow-up.**

Gifts

141. The guidelines "Good behaviour in the police and prosecution service" makes clear that – as a general rule – employees in the Danish police should not accept any gifts or other benefits that are offered because of their employment in the police. It makes clear that the rules concerning gifts and other benefits are stricter for police staff than for other civil servants (with the Code of Conduct in the Public Sector warning employees to be cautious about accepting gifts in connection with their work, giving examples of situations in which a gift must be categorically declined). The GET was told that the provisions on the acceptance of gifts by staff of the police were tightened in the wake of media reports of police officers in Jutland who had accepted free tickets for plays and exhibitions. In reply to questions from the Ombudsman, the guidelines were further amended to make clear that the overriding principle was that staff of the police was "not permitted to accept gifts of gratitude from citizens nor to attend externally financed seminars".[74]

142. A few exceptions to the general prohibition on receiving gifts and other benefits continue to apply, such as general hospitality or – for example – a bottle of wine or flowers after s/he, as part of his/her work, has given a presentation or lecture or a gift for an anniversary. The exceptional acceptance of a gift is thus dependent on the nature of the gift or benefit and the context in which it is offered. If there are any doubts, the staff member of the police should discuss this with his/her manager. If a gift cannot be accepted, it must be returned, regardless of the costs involved in the return. If it cannot be returned it must be destroyed.

143. The GET welcomes the fact that the rules on gifts for staff of the police are stricter than those for other civil servants. It understands that there is additionally a practice of registering certain gifts (e.g. those received in connection with a visit from a foreign delegation). Nevertheless, to see if this "close to zero tolerance" policy towards gifts is respected and to ensure an adequate level of transparency on the gifts accepted under the exceptions that have been provided for, the GET would encourage the Danish National Police to make sure that the acceptance of gifts is always registered, not only in relation to visits of foreign delegations (and to make this information public, if appropriate).

Misuse of public resources

[74] See *2017 Annual Report of the Parliamentary Ombudsman,* p. 87.

144. Criminal misuse of the public resources, e.g. fraud, embezzlement, abuse of position or breach of trust, constitutes a criminal offence (pursuant to sections 155, 278, 279 and 280 of the Criminal Code). If not a criminal offence, it may lead to disciplinary actions. To this end, both the guidelines on "good behaviour in the police and prosecution service" and the Code of Conduct in the public sector have a chapter on sound financial management. It *inter alia* points to the need for staff of the police to be acquainted with procurement rules when in charge of purchases for the police, the travel guidelines for reimbursement of official missions and administrative guidelines on possible representational expenses.

145. As outlined in the part on risk management for corruption-prone areas (see paragraph 111 above), specifically as regards procurement, further measures have been taken which include new internal regulations and guidelines, providing *inter alia* for centralisation of all procurement above 100.000 DKK (approximately 13.400 EUR) and register of personal relationships between procurement officers and possible suppliers. In addition, in order to make purchases on behalf of the police, employees must have an authority delegated to them to make larger purchases on behalf of the police. The majority of purchases are paid through an electronic billing system, which requires the approval of two authorised employees before the payment can be made. Use is also made of internal control procedures, such as unannounced audits, to make sure that the applicable rules are being followed.

146. The police does not keep any statistics on misuse of public resources in the police, but has given a few narrative examples: In 2014, a police officer in a management position was given a suspended sentence of 20 days' imprisonment, as well as a fine of 5.000 DKK (approximately EUR 670 in violation of section 104 of the Criminal Code of Greenland, for submitting false travel claims due to which he received 8.500 DKK (approximately EUR 1.150) in excess in per diems. In 2015, a police officer was given a suspended sentence of 14 days' imprisonment for misappropriation in violation of sections 280 and 285 of the Criminal Code, for using a fuel card belonging to a police department for private purposes (at a loss of 4.440 DKK / approximately 595 EUR to the Danish police). Both police officers were dismissed by the Ministry of Justice without warning, based on a recommendation of the Danish National Police.

Third party contacts, confidential information

147. The duty of confidentiality follows from section 152 of the Criminal Code, which provides that anyone who performs or has performed a public function or office and unduly discloses or uses confidential information imparted to him/her in the course of his/her duties can be sentenced to a fine or up to six months' imprisonment. Similarly, section 27 of the Public Administration Act provides that any person employed by or acting on behalf of a public administration body is subject to a duty to confidentiality (making reference to the aforementioned section 152 and sections 152c-f of the Criminal Code). This duty of confidentiality also applies after the person in question stops to perform this public function or office.

148. Confidentiality is also one of the topics covered by the publication "good behaviour in the police and prosecution service" which explains that staff of the police should avoid speaking about specific cases or specialised working methods and should also not try to obtain confidential information if it does not affect a case they are working for or is otherwise needed

for work. Reference is made to the Code of Conduct in the Public Sector, which provides further guidance on this issue, explaining that certain public or private interests (e.g. the security of the state, public authorities' internal decision-making processes etc. or a person's criminal history, health or financial information) can lead to information being designated confidential. Staff of the police who use confidential information in violation of the aforementioned codes may become subject to disciplinary action (as well as criminal proceedings, as per the above).

149. The Danish police does not keep any statistics on violation of the regulations on confidentiality of information. It however points out that, in 2010, a police officer was sentenced to 60 days' suspended imprisonment for violation of sections 152 (passing on confidential information) and 155 (abuse of position) of the Criminal Code, when he informed a suspect his phone was being tapped in a case dealing with trafficking in illegal weapons. The police officer in question was dismissed from service by the Minister of Justice without warning, upon a recommendation of the Danish National Police.

Post-employment restrictions

150. Staff of the police may be employed in other posts after they have left the police: the Danish National Police does not have a policy or rules on employment after exercising a function in the Danish police other than the duty of confidentiality pursuant to article 152 of the Criminal Code (see above).

151. The lack of any safeguards as regards employment after having left the police creates certain integrity risks (offers of jobs as rewards, use of communication channels with former colleagues or specialised knowledge on police procedures for the benefit of new employers, etc.). In this context, the GET recalls that Recommendation no R(2000) 10 on codes of conduct for public officials contains specific guidelines for staff 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" and that "the public official should immediately disclose to his or her supervisor any concrete offer of employment that could create a conflict of interest and should also disclose to his or her superior his or her acceptance of any offer of employment". Specifically for certain functions in the police, it would be advisable to put stricter post-employment regulations in place. However, in the absence of any data, it cannot be assessed how often persons leave the police for other functions in the private sector, in which areas and what specific integrity-related risks are associated with police staff taking up other employment following their departure from the police force. In light of this, **GRECO recommends that a study be conducted concerning employment of staff of the police after they leave the police and that, in the light of the findings, a policy be adopted to minimise the risk of possible conflicts of interest in this respect.**

Declaration of assets, income, liabilities and interests

Declaration requirements

152. There are no requirements on staff of the police to file declarations of assets and interests, other than the information to be submitted for the purpose of vetting (which allows

the PET to obtain information from the tax authorities and for higher security clearances also other information on financial interests). Even if the economic situation of police officers is being looked into as part of the security clearance at higher levels, it would appear appropriate for certain officials, e.g. those in top management positions or in particularly vulnerable positions, to file financial declarations. The GET considers that this subject merits further reflection by the authorities. Consequently, **GRECO recommends that the authorities analyse the need for introducing a requirement for certain officials within the police to declare financial interests on a regular basis.**

Oversight and enforcement

Internal oversight and control

153. Internal oversight within the police is organised along hierarchical lines: with oversight first of all being the responsibility of the supervisor of the staff member concerned. Similarly the various departments in the Danish National Police perform hierarchical supervision of the local police districts to ensure that the local districts follow the national regulations and act in accordance with principles of good public administration, with the Ministry of Justice in turn performing supervision over the Danish National Police.

154. In addition, as already indicated in the part on risk management for corruption-prone areas (see paragraphs 110-111 above), there is an Independent Unit for Supervision and Controlling within the Danish National Police, which has as its main aim the strengthening of internal control and supervision in the Danish police (ensuring that the police acts in accordance with principles of good administration and coordinating tasks in relation to the Auditor General). The unit carries out a risk analysis on an annual basis. There are eight employees in this unit and it falls under the Corporate Management Board of the Danish National Police. It can raise issues directly with this Board or with the National Commissioner. In addition to this unit, various other parts of the police are tasked with some form of internal oversight (for example the Procurement Centre mentioned in paragraph 111 above).

155. Given that the Independent Unit for Supervision and Controlling is *inter alia* responsible for risk assessments and analyses, internal control procedures, regular and unannounced audits, as well as from 1 January 2019 for the whistleblowing regulation, the GET has some concerns about the resources allocated to it (given that it has only seven staff members) and urges the Danish authorities to keep this under the review, also in view of the unpredictability of the amount of work associated with the new whistleblowing system.

156. The Independent Unit for Supervision and Controlling does not handle disciplinary proceedings, which are conducted (as described in paragraphs 171-172 further below) by the Human Resources (HR) Law Unit of the Corporate HR Department of Danish National Police, based on disciplinary investigations conducted within the police districts themselves or by Independent Police Complaints Authority (on the basis of a complaint).

External oversight and control

157. On 1 January 2012, the Independent Police Complaints Authority (IPCA), *Den Uafhængige Politiklagemyndighed*, became operational. It is charged with investigating

criminal offences committed by police personnel while on duty and handling complaints concerning the conduct of police personnel, as well as investigating cases concerning the death or injury of persons in police custody. The IPCA is an autonomous government agency, which – in accordance with section 118 of the Administration of Justice Act – is independent of the police, prosecution service and the Ministry of Justice.

158. The IPCA is headed by a Police Complaints Council (*Politiklageråd*), chaired by a high court judge, with a practicing attorney, a professor of law and two representatives of the general public as members. The Minister of Justice appoints the chair and members of the Council for a four year term (renewable once). The IPCA has around 35 staff members: a chief executive, 12 investigators, 12 lawyers and 8 administrative staff (as well as 3 law students). It has a budget of around 24M DKK (around 3,2M EUR), which is set by the Minister of Justice. The IPCA publishes an annual report on its activities (as well as a financial report). The GET was told that all 12 investigators were former police officers, but that they would not investigate a case coming from their former place or area of work if this would lead to a conflict of interests and would – as an additional safeguard –always work in a team with a lawyer.

159. The IPCA can initiate an investigation either *ex officio* or on the basis of a complaint, but is obliged to do so when a person has died or been seriously injured as a result of a police intervention or when in police custody. In investigating possible criminal offences committed by the police, whether on the basis of a complaint or *ex officio*, the IPCA has all the same tools as in an ordinary criminal investigation (forensic examinations etc.). Upon completion of the investigation, the IPCA will forward the case to the regional public prosecutor, who decides whether a prosecution will be brought. If the IPCA dismisses the complaint, the decision may be appealed to the prosecution service. If the regional public prosecutor decides not to bring a prosecution, the decision may be appealed to the Director of Public Prosecutions, both by the complainant (if the complaint formed the basis for the criminal investigation) and by the IPCA.

160. If a complaint concerns police misconduct (i.e. not criminal offences), the decision by the IPCA – following an investigation into the alleged misconduct and interviews of the parties involved – is final and cannot be submitted to another administrative authority. The IPCA can express criticism of the police staff member subject to the complaint, find that there are no grounds for expressing criticism or find the misconduct regretful or inappropriate (in which case it can also issue an apology to the complainant without criticising the police as such). The file is then forwarded to the Danish National Police (Corporate HR Unit) for possible further disciplinary proceedings (see below under disciplinary proceedings). The GET was told that in the last seven years there were only two or three cases in which the conclusion of the IPCA on misconduct by the police was not followed up (i.e. had not led to disciplinary sanctions). In those cases, the IPCA would ask for further explanations and have a dialogue with the Danish National Police on the follow-up to be given.

161. In 2017, the IPCA received 2517 complaints, of which it considered 1676 cases to fall in the remit of sections 93b and 93c of the Administration of Justice Act), with the remaining 841 cases concerning other types of complaints/ inquiries.[75] Of the 1676 cases, 426 were

[75] See the Annual Report of the IPCA for 2017.

criminal cases, 769 were related to violation of traffic regulations, 17 were related to persons dying or being seriously injured while in police custody or in relation to a police intervention (which the IPCA investigates under section 1020a of the Administration of Justice Act) considered and 464 had to do with police misconduct.

162. The GET welcomes the establishment of the IPCA, which it considers to be a good practice to be followed: the IPCA provides for independent investigations of not only criminal offences by the police, but also follows up on complaints into misconduct. Its responsibilities, as well as working methods and work flows, seem to be clearly defined, and it seems adequately equipped to carry out its tasks, with the necessary independence being ensured. It is perhaps not always easy for citizens to understand the follow up given to a complaint, but the GET came away with a good impression of the outreach activities by the IPCA to address this. The IPCA informs citizens of their right to complain and the applicable procedures (noting that citizens were encouraged to contact the IPCA if in doubt who to contact about a complaint), and also raises awareness among the police (at the Police College, by going to the police districts etc.), given that the IPCA could also be a reporting avenue for police officers themselves.

163. Another important, external oversight authority is the Parliamentary Ombudsman, as already described in the first part of this report (see paragraphs 60-61 above).[76]

Complaints by the public

164. Citizens can address complaints free of charge by letter, e-mail or phone to the IPCA. To facilitate the complaints process, the IPCA has issued a brochure "Do you want to complain about the police" explaining the procedure.[77] As indicated above, complainants may contact the IPCA for advice before submitting the complaint (with such requests for advice not automatically starting the complaints process). Complaints concerning misconduct of the police must be submitted to the IPCA within six months' of the conduct having taken place; Complaints concerning possible criminal offences by the police do not have a time-limit.

165. Furthermore, as indicated before, any citizen may file a complaint with the Ombudsman. In case of police staff being subject to a complaint, the Ombudsman can only accept cases when the right to administrative redress has been exhausted (which means that in certain cases a complainant must first have addressed the IPCA) and has no jurisdiction once a case has been brought before a court.

[76] The Ombudsman's annual report for 2017 lists 50 cases concerning the Danish National Police, of which 26 were investigated (in 22 other cases, other forms of processing or assistance to citizens applied, and in 2 other cases, the applications were rejected for formal reasons): in 10 cases, the Ombudsman expressed criticism, or issued a formal or informal recommendation to the Danish National police; in 16 cases, it did not do so. In addition, the Ombudsman's report 108 cases concerning other parts of the Police, of which 7 were investigated (in 79 other cases other forms of processing and assistance to citizens applied and 22 were rejected for formal reasons), which resulted in the Ombudsman expressing criticism, a formal or informal recommendation in 1 case; in 6 cases it did not do so.

[77] See http://www.politiklagemyndigheden.dk/media/6447/booklet_-_do_you_want_to_complain_about_the_police.pdf

Reporting obligations and whistleblower protection

Reporting obligations

166. Every government employee who is asked to execute an illegal order has the right and even a duty to report on this. To this end, the guidelines "good behaviour in the police and prosecution service" provides that an employee of the police has to make his/her manager aware of his/her doubts as to the legality of the order and has a duty to decline to carry out the illegal order. If the manager nevertheless maintains that the order was legal, the manager's immediate superior is to be notified. Similar guidance is provided by the Code of Conduct in the Public Sector.

167. In addition, the GET was informed that by virtue of their employment in the police and the decorum requirement of section 10 CSA[78], staff of the police were under an obligation to report either suspected criminal offences (including corruption) or other misconduct that they might come across within the police. The guidelines "good behaviour in the police and the prosecution service" and the Code of Conduct in the Public Sector are however silent on how to act when witnessing misconduct by colleagues. For the GET, a duty to report is especially valuable in hierarchical organisations, where a "code of silence" may be present, wittingly or unwittingly hampering efforts to bring misconduct to light. It therefore finds that awareness should be raised of the duty of police staff to report misconduct they may come across within the police (and the available channels to report such misconduct), by – for example – amending the guidelines "good behaviour in the police and prosecution service" in this respect, to complement the new regulations on whistleblowers mentioned further below. Consequently, **GRECO recommends that measures be taken to raise awareness of staff of the police of their duty to report corruption-related misconduct within the police service.**

Whistleblower protection

168. At the time of the on-site visit, Denmark did not have a regulatory framework on whistleblowers, neither for public administration in general nor specifically for the police. However, the GET was informed that a whistleblowing system for all authorities under the Ministry of Justice (i.e. police, detention centres etc.) was in the process of being set up. This system became operational for the police on 1 March 2019. The setting up of this system has not been without criticism, with some trade union representatives in particular fearing that it would harm the working environment in the police, in that it would encourage mistrust among colleagues.

169. The GET was informed that with the introduction of the new whistleblower system, staff could report to a special web portal without having to reveal their identity. They would be informed of the follow-up given to their report and the resulting findings. An employee reporting in good faith would be protected from retaliation: if s/he would suffer adverse consequences due their report, s/he would be required to report this through the system to allow for measures to be taken and would be in certain cases be entitled to compensation. Given that the whistleblower system has only recently been established and the information the GET has at its disposal is too limited to assess the workings of this new system, it encourages the Danish authorities to evaluate the new system within a certain period of time

[78] This requirement would reportedly also be applicable to other staff of the police (see footnote 62 above).

in the light of European standards[79], especially in view of its potential to be expanded to the rest of the public sector.

Enforcement procedure and sanctions

Disciplinary proceedings

170. Disciplinary offences are defined as a "wrongful breach of duties" (section 24 CSA), for which a civil servant can receive a minor sanction (disciplinary warning, reprimand or disciplinary fine not exceeding 1/25th of the civil servant's monthly salary) or a serious sanction (disciplinary fine exceeding 1/25th of the civil servant's monthly salary, disciplinary transfer to another unit or police district, degradation or cancellation of a certain salary scale or title, or disciplinary dismissal). Staff of the police who are not civil servants under the CSA are subject to disciplinary sanctions under the Labour Law: a warning, reprimand, transfer to another job or ultimately dismissal.

171. The HR Law Unit of the Corporate HR Department of Danish National Police handles disciplinary proceedings against staff of the Police (which is only one of the tasks assigned to the HR Law Unit). The HR Law Unit is forwarded cases directly by one of the police districts, by the IPCA or by the courts following criminal proceedings. It does not carry out any control or surveillance itself, but relies on the findings of others, such as IPCA[80], and only conducts disciplinary hearings (which are the only types of 'investigations' it conducts). For this it has a staff of 11 (one police officer, one administrative staff, nine academic staff) and can also rely on the services of four law students. The Danish National Police is the highest-ranking authority in disciplinary cases, except for when a sanction of dismissal from service is to be imposed: the Minister of Justice imposes this sanction.

172. For cases which are within the remit of the IPCA, the IPCA will inform the Danish National Police when an investigation begins, both as regards complaints concerning misconduct and criminal offences committed by the police, so that they can decide whether there should be other official steps against the staff member in question (e.g. suspension, which is usually only used when a dismissal is to be expected, or temporary transfer to another unit, where for example the police officer will have less interaction with the general public).

173. Police officers can evade disciplinary responsibility by leaving the police force, as disciplinary sanctions cannot be imposed on police officers who have retired or otherwise left the service, even if the misconduct took place during their active service. It has been known to happen that police officers retire before a disciplinary sanction can be imposed for serious disciplinary offences committed before their retirement (and in some cases a disciplinary offence will only be detected once a police officer has retired). Notwithstanding that initiating criminal proceedings for misconduct constituting a criminal offence remains possible, the Danish authorities may wish to consider extending "disciplinary" liability for serious

[79] Recommendation CM/Rec(2014)7 of the Committee of Ministers on the protection of whistleblowers.

[80] If a citizen would complain to the IPCA that, for example, a police officer has used offensive language, the IPCA would investigate this. If it finds that the language used by the police officer constitutes misconduct, it sends the decision to the HR Law Unit, which assessed whether disciplinary action is called for or not. In case disciplinary action is called for it asks the relevant local police district to execute the sanction; if the HR Law Unit decides not take any further action it informs the police officer in question that the case is closed.

disciplinary misconduct to police officers who have retired, for example by providing for a reduction in pension or loss in pension rights.

Criminal proceedings and immunities

174. Police officers (or other staff of the police) do not enjoy immunities or other procedural privileges. A described above, the investigation of criminal offences committed by police officers on duty will be conducted by the IPCA and end up in an ordinary court procedure. Criminal sanctions imposed upon an officer do not preclude the imposition of disciplinary sanctions for the same act and *vice versa*.

Statistics

175. The HR Department of the Danish National Police publishes an annual summary of completed cases processed in the preceding year on the website of the Danish National Police. This anonymised summary describes violations of the Criminal Code and other legislation both of and on duty. The GET was informed that, in 2017, the Danish National Police received a total of 97 cases of possible disciplinary violations. Out of those 97 cases, 39 cases (40%) resulted in a disciplinary reprimand or warning, 25 cases (26%) resulted in a disciplinary fine, six cases resulted in dismissal (6%) and in 27 cases (28%) no disciplinary action was taken. In eight of those cases, the police officer chose to resign voluntarily in the course of the proceedings.

176. More specifically as regards criminal proceedings, in the last 3 years, the IPCA has registered the following number of criminal complaints against police officers:

Nature of complaint	**2016**	**2017**	**2018**
Abuse of authority	178	152	144
Violence	133	143	123
Disclosure of confidential information	38	39	49
Other (e.g. theft, indecent exposure etc.)	115	92	130
Total criminal complaints	**464**	**426**	**446**

VI. RECOMMENDATIONS AND FOLLOW-UP

177. In view of the findings of the present report, GRECO addresses the following recommendations to Denmark:

Regarding central governments (top executive functions)

i. **that an analysis of integrity-related risks involving members of the government and special advisers be carried out and that on this basis a strategy for the integrity of persons with top executive functions be developed and implemented** (paragraph 38);

ii. **(i) that a code of conduct for persons with top executive functions be adopted, complemented with appropriate guidance regarding conflicts of interest and other integrity-related matters (e.g. gifts, outside activities, third party contacts, handling of confidential information etc.) and (ii) that such a code be coupled with a mechanism of supervision and enforcement** (paragraph 44);

iii. **that i) systematic briefing on integrity issues be imparted to members of the government upon taking up their positions and at certain intervals thereafter and ii) confidential counselling on integrity issues be established for them** (paragraph 47);

iv. **that, in order to improve public access to information under the Access to Public Administration Files Act, the scope of the exceptions under the Act be restricted or further measures be taken to ensure that the exceptions under the act are applied less frequently in practice** (paragraph 51);

v. **(i) introducing rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties seeking to influence governmental processes and decisions; and (ii) increasing the transparency of contacts and subject matters concerning lobbying of persons entrusted with top executive functions** (paragraph 56);

vi. **introducing rules to deal with the employment of persons entrusted with top executive functions following the termination of their service in the public sector** (paragraph 81);

vii. **(i) enshrining in regulation or legislation an obligation for members of the government to publicly declare their assets, income and financial interests; (ii) that quantitative data on income as well as data on assets and significant liabilities is included in the financial declarations; and (iii) that it be considered to oblige special advisers to declare their financial interests publicly on a regular basis as well** (paragraph 84);

viii. **that declarations submitted by persons entrusted with top executive functions be subject to substantive control** (paragraph 86);

Regarding law enforcement agencies

ix. **further developing training particularly focusing on the special integrity requirements relevant for the police and to make such training mandatory for managers in the Danish police** (paragraph 118);

x. **that further measures be taken to strengthen the representation of women and other underrepresented groups at all levels in the Danish police** (paragraph 127);

xi. **developing a streamlined system for authorisation of secondary activities within the police, which is coupled with effective follow-up** (paragraph 140);

xii. **that a study be conducted concerning employment of staff of the police after they leave the police and that, in the light of the findings, a policy be adopted to minimise the risk of possible conflicts of interest in this respect** (paragraph 151);

xiii. **that the authorities analyse the need for introducing a requirement for certain officials within the police to declare financial interests on a regular basis** (paragraph 152);

xiv. **that measures be taken to raise awareness of staff of the police of their duty to report corruption-related misconduct within the police service** (paragraph 167).

178. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Denmark to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2020. The measures will be assessed by GRECO through its specific compliance procedure.

179. GRECO invites the authorities of Denmark 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.

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.

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