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# FIFTH EVALUATION ROUND

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

## EVALUATION REPORT

# BELGIUM



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

COUNCIL OF EUROPE



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## **I. EXECUTIVE SUMMARY**

1. This report assesses the effectiveness of measures taken in Belgium to prevent corruption among persons occupying top executive functions, such as Ministers, State Secretaries and influential members of ministerial private offices and other strategic bodies, and in the federal police force. It is designed to encourage discussion in the country on ways of strengthening transparency, integrity and accountability in public life.

2. Such a debate is particularly relevant in the case of senior political figures in the executive branch of government, to whom practically no integrity rules apply. There is as such no integrity policy or code of conduct applicable to ministers. The recruitment and remuneration of members of their private offices/strategic bodies are entirely at the Ministers' discretion, subject only to the relevant budgetary constraints. There are very few rules on incompatibility and other outside activities, conflicts of interest and gifts, and none on relations with third parties, so-called revolving doors practices and so on.

3. Efforts must be made to lay down rules governing the recruitment and employment conditions of members of private offices and make their activities more transparent, and to establish an appropriate code of conduct for all those occupying senior posts in the executive branch to fill the gaps identified below, coupled with ways of ensuring that they are applied and suitable awareness-raising activities.

4. Certain improvements have already been made to the arrangements governing declarations of mandates, or public offices held, in response to GRECO's recommendations in the fourth evaluation round. The progress made in this area must be continued to ensure that the declaration system highlights possible conflicts of interest of senior politicians and officials, with a view to identifying any cases of illicit enrichment. These declarations must also be published more promptly and they must be subject to effective scrutiny.

5. The Belgian federal police force is well regarded by the public at large but suffers from a lack of resources, which particularly affects the departments responsible for preventing and combating corruption. A few years ago, the federal police undertook a review of its procedures for assessing integrity and corruption in its ranks but this does not appear to have been continued more recently. There is a comprehensive Code of Conduct, but it dates back to 2006 and needs to be updated. Those entering the police force are subject to strict and comprehensive scrutiny but no further checks on integrity are carried out in the course of officers' careers, even though new risk factors may arise. Such checks must therefore be carried out at regular intervals, particularly when officers are being recruited to certain sensitive posts.

6. GRECO also calls on the federal police to review its arrangements for authorising outside activities for police officers, which have recently changed from a very restrictive approach to one in which authorisation is granted almost automatically. This raises numerous questions from the standpoints of preventing conflicts of interest and managing work time. Outside activities must be subject to transparent criteria and effective scrutiny. More generally, the internal supervisory system as a whole needs to be more proactive. Similarly, the external supervisory bodies must be informed in good time of criminal inquiries and convictions concerning police officers, which is not currently the case.

## II. INTRODUCTION AND METHODOLOGY

7. Belgium joined GRECO in 1999 and has been the subject of its first (October 2000), second (April 2004), third (November 2008) and fourth (October 2013) evaluation rounds. The resulting evaluation reports, as well as the subsequent compliance reports, are available on GRECO's website ([www.coe.int/greco](http://www.coe.int/greco)). The fifth evaluation round started on 1 January 2017.<sup>1</sup>

8. This report sets out to assess the effectiveness of the measures taken by the Belgian authorities to prevent corruption and promote integrity within the senior ranks of the central government (top executive functions) and law enforcement authorities. It presents a critical analysis of the situation, based on its examination of the steps taken by those concerned and the results achieved. It highlights certain gaps and makes recommendations for improvements. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of the Belgian delegation in GRECO, to the Belgian authorities, which will then decide which national institutions/bodies are to be responsible for taking the requisite action. Belgium is required to report back on the action taken in response to GRECO's recommendations within 18 months of the report's adoption.

9. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Belgium from 3 to 7 June 2019, and considered Belgium's responses to the evaluation questionnaire, as well as other information received by GRECO, including contributions from civil society. The GET comprised Mr Olivier Gonin, scientific advisor, international criminal law unit, Federal Office of Justice (Switzerland), Mr Frédéric Gutierrez Le Saux, divisional police commissioner, head of the Frontier Police, Immigration and Road Safety Department (Andorra), Mr Jean-Baptiste Parlos, judicial officer, advisor to the criminal bench of the Court of Cassation (France) and Ms Patricia Weicker, member of the Central Police Directorate (Luxembourg). The GET was assisted by Sophie Meudal-Leenders of the GRECO secretariat.

10. The GET met representatives of the following bodies: the House of Representatives, the federal public departments of the Chancellery of the Prime Minister, foreign affairs, justice, internal affairs and finance, the federal internal audit department, the ethics and good practices office, the federal police, the Standing Committee for Monitoring Police Departments, the Federal Ethics Commission, the federal Ombudsman, the Court of Auditors and the Treasury. It also met representatives of police trade unions, journalists, and representatives of civil society and universities.

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<sup>1</sup> More information on the methodology used appears in the evaluation questionnaire, which is available on the GRECO [internet site](#).

### III. CONTEXT

11. Belgium has been a member of GRECO since 1999. Since then, it has been the subject of four evaluation rounds on different aspects of preventing and combating corruption.<sup>2</sup> GRECO's recommendations arising from these evaluations have been rather varied in effect, with the level of implementation declining with each round. For example, all the first round recommendations have been fully implemented, compared with only 55% of the second round recommendations, the remainder having been partly implemented. Only 40% of the third round recommendations have been fully implemented, with 53% partly implemented. One remained non-implemented at the closure of the round. Implementation of the fourth round recommendations is so far rather sketchy, though the compliance procedure is still under way. To date, only 13% of the recommendations have been fully implemented by Belgium, 80% have been partly implemented and 7% have not been implemented.

12. Belgium has a fairly favourable rating in international classifications of perceptions of corruption. It is ranked 17<sup>th</sup> in Transparency International's 2018 index<sup>3</sup> and its position varies little from year to year. According to Eurobarometer's 2017 survey of perceptions of corruption,<sup>4</sup> 65% of persons questioned thought that corruption remained a significant problem in Belgium (EU average 68%), and 8% of them stated that they had encountered this problem in the previous 12 months, compared with an EU average of 5%. The survey also shows a significant rise in persons reporting such corruption: 36% of those concerned, which is double the EU average (18%) and a 15 point rise since the previous barometer in 2013. National and local politicians and the political parties headed the list of categories deemed to be the most affected by corruption and abuse of power (65% of those questioned in Belgium compared with an EU average of 56%). The Belgian police have a better image, with only 31% of respondents considering that corruption and abuse of power are widespread (EU average 43%). However, GRECO's fourth round report stated that police departments' lack of financial resources had reduced the effectiveness of investigations of financial and economic crimes. The EU's 2014 anti-corruption report<sup>5</sup> had also called for more police resources to enable them to identify and investigate corruption offences.

13. There have been a number of political-financial scandals in Belgium in recent years. A particular example is the Kazakhgate case, which involved trading in influence between France and Belgium to protect Kazakh businessmen from prosecution in Belgium for money laundering and corruption in connection with a contract for the purchase of French helicopters by Kazakhstan. This gave rise to a settlement of the criminal proceedings, thanks to legislation that had just been passed in Belgium. Several Ministers were cited in this case and the lobbying of the government and parliament to secure enactment of the legislation in question raised a number of issues.<sup>6</sup> One could also mention the case of the freezing of Libyan assets,<sup>7</sup> in which the dividends from the assets in question were reputedly used to finance Libyan militia involved in human trafficking. Judicial investigation is under way in this case.

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<sup>2</sup> Round I: Independence and specialisation of national bodies engaged in preventing and combating corruption, and the resources at their disposal. Scope and extent of immunities. Round II: identification, seizure and confiscation of the proceeds of corruption. Public administration and corruption. Preventing the use of legal persons as shields for corruption. Tax and financial legislation to counter corruption. Links between corruption, organised crime and money laundering. Round III: Incrimination of corruption. Transparency of political party funding. Round IV: Preventing corruption among parliamentarians, judges and prosecutors.

<sup>3</sup> <https://www.transparency.org/cpi2018>

<sup>4</sup> <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2176>

<sup>5</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_belgium\\_chapter\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_belgium_chapter_en.pdf)

<sup>6</sup> See <https://www.levif.be/actualite/Belgium/commission-kazakhgate-les-conclusions-rabotees-par-la-majorite/article-normal-820359.html>

<sup>7</sup> [https://www.rtf.be/info/Belgium/detail\\_gel-des-avoirs-libyens-nouveau-scandale-d-etat?id=10056295](https://www.rtf.be/info/Belgium/detail_gel-des-avoirs-libyens-nouveau-scandale-d-etat?id=10056295)

#### IV. PREVENTING CORRUPTION IN GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

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

###### *System of government*

14. Belgium is a parliamentary democracy in the form of a constitutional monarchy. Between 1970 and 1993, the country moved towards a federal structure. Executive power is exercised by the King and his government, made up of Ministers and State Secretaries (Article 85 et seq. of the Constitution).<sup>8</sup>

###### The King

15. The King reigns but does not govern. He cannot act alone. Since the King's person is inviolable all his acts must be covered by a Minister, who is accountable for them before parliament (Articles 88 and 106 of the Constitution).

16. The King makes certain formal appointments: Ministers, public office holders, general and foreign service administrative posts, prosecutors attached to the courts, judges of courts and tribunals at all levels. Other than in the case of ministers, these appointments are the responsibility of the Minister concerned, in accordance with the procedures laid down in law.

17. The King assents to and promulgates legislation but he cannot suspend it or fail to execute it. On the advice of the Minister of Justice, the crown can remit or reduce sentences laid down by the courts, except in cases against Ministers and members of community and regional governments. The King can pardon Ministers and members of community and regional governments convicted by the Court of Cassation only at the request of the House of Representatives or of the parliament concerned.

18. Finally, the King has the right to confer titles of nobility and military orders. All his proposed visits must be communicated to the Foreign Minister in the interests of transparency and political expediency. Visits of political significance are subject to the Minister's approval.

19. 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 and, taking decisions on the appointment of individuals to top executive functions.

20. The GET notes that the functions of the King in Belgium are solely of a symbolic and ceremonial nature and that he does not actively and regularly participate in governmental functions. All his decisions must be prepared and approved by a Minister, who bears responsibility for them. It follows that the functions of the Crown in Belgium do not fall within the category of "persons entrusted with top executive functions" (PTEFs) as spelt out in paragraph 19.

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<sup>8</sup> [https://www.dekamer.be/kvvcr/pdf\\_sections/publications/constitution/GrondwetUK.pdf](https://www.dekamer.be/kvvcr/pdf_sections/publications/constitution/GrondwetUK.pdf)

## The government

21. The federal government is a collegial body under the direction of the Prime Minister composed of a maximum of 15 Ministers. Under the Constitution (Article 11bis), the Council of Ministers must include persons of both sexes but parity is not required. Linguistic parity is a requirement but is not necessarily extended to the Prime Minister, who is the head of government and represents all Belgians. Nor does it concern state secretaries, who assist certain Ministers but are not members of the Council of Ministers. The GET notes that, although they are not part of the Council of Ministers, State Secretaries hold political mandates and are members of the executive. They must therefore be deemed to be persons entrusted with top executive functions (PTEFs) for the purposes of this evaluation.

22. The government includes Deputy Prime Ministers, who are the key partners of the Prime Minister. They are often the leading members of the governmental parties. As such, they are required to settle disputes and propose compromises in order to find solutions on important issues.

23. Since the resignation of the government on 21 December 2018, it deals only with routine, day-to-day matters. This has continued since the elections of 26 May 2019, pending formation of a new government. This caretaker government comprises the Prime Minister, three deputy Prime Ministers and nine Ministers, four of whom are women. The GET notes that this is not consistent with Committee of Ministers' [Recommendation Rec\(2003\)3 on balanced participation of women and men in political and public decision-making](#), according to which balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%. The GET therefore encourages the authorities to intensify their efforts to secure a better balance between men and women in the next government.

24. The government reaches decisions on a collegial basis. The Council of Ministers continues discussions until a consensus is reached. If no consensus is possible, the matter is deferred. Ministers are collectively responsible for decisions taken.

25. If authorised by royal decree – decrees issued by the Crown under the authority of one or more Ministers – Ministers may take decisions or issue instructions in the form of ministerial orders. However, these must be confined to additional implementing measures or matters of detail.

### *Status and remuneration of persons occupying top executive functions at national level*

26. The Prime Minister is the head of the government that s/he has formed following parliamentary elections. S/he chairs the Council of Ministers and directs and co-ordinates its activities. As such, the Prime Minister exercises effective authority over his or her colleagues. The Prime Minister's resignation for political reasons leads to the fall of the government. This can occur if parliament passes a vote of no confidence or rejects a motion of confidence by an absolute majority and proposes to the King the appointment of a successor to the Prime Minister.

27. Ministers are formally appointed by the Crown but in practice are nominated by the leaders of the parties with sufficient parliamentary majority who have signed an agreement to form a government that can secure the confidence of parliament. There is no vetting procedure prior to their appointment. Once installed, the government in its entirety must seek and obtain the



confidence of the House of Representatives, to which Ministers are answerable. Ministers who are members of parliament are not allowed to sit during the tenure of their office.

28. The following table shows the indexed salaries and allowances received by members of the federal government.<sup>9</sup>

	Gross salary	Hospitality allowance	Housing and domestic expenses
Prime Minister/Deputy Prime Minister/Foreign Minister	222 427.50 EUR per year	686.17 EUR per month	1 716.18 EUR per month
Ministers	222 427.50 EUR per year	343.08 EUR per month	1 716.18 EUR per month
State secretaries	211 146.20 EUR per year	343.08 EUR per month	1 716.18 EUR per month

29. Ministers and state secretaries are assisted by a secretariat and by so-called strategy units, the term used for their private political offices since the 2000 COPERNIC reform. Secretariats comprise spokespersons, staff officers, a Minister’s personal secretary and executive assistants. Strategy units take various forms, depending on the relevant Minister’s or State Secretary’s position in the government. Each Minister has such a strategic body made up of advisers. The Deputy Prime Ministers are each assisted by a general policy unit and the Prime Minister has a policy general co-ordination unit responsible for co-ordinating, preparing and assessing government policy. These strategic bodies are of a political nature.

30. The members of these strategy units are either seconded public officials or persons from the private sector. Under the COPERNIC reform, the strategy units were to be part of the government administrative structure and their members were to be recruited by SELOR, the federal administrative recruitment body. This initial approach was replaced two years later by a system in which strategy unit members are appointed by the Minister or State Secretary concerned.

31. Those with whom the GET spoke confirmed that members of strategy units were chosen at the discretion of the Minister or State Secretary concerned, possibly in consultation with the political party s/he represented. Their duties are therefore linked to those of the Ministers or State Secretaries who recruit them, and who also determine their remuneration, within the limits of a budget allocated to that particular Minister or State Secretary, rather than to the ministry as a whole. These duties can be terminated on a decision of the relevant Minister or State Secretary and certainly no later than the latter’s resignation. The role of the strategy units is to prepare, monitor and assess the Minister’s or State Secretary’s policy. They also act as a link between the Minister and the administration, or even his or her political party.

32. In the light of the above, the GET considers that influential members of these strategic bodies – as well as spokespersons, even though they are formally part of their Minister’s secretariat – must be deemed to be PTEFs, within the meaning of this report. This position has

<sup>9</sup> Situation in November 2018, threshold index 138.01 – adjustment 1.7069. By way of comparison, according to the Belgian statistical office, in 2016 the average monthly salary in Belgium was 3 489 euros. Half the country’s employees earn more than 3 053 euros per month. Ten percent earn less than 2 233 euros while 10% earn more than 5 381 euros.

also recently been taken by the Belgian parliament. It has decided that, as of 2019, the federal government personnel in Ministers' strategy units responsible for advising on political issues, strategic policy and communication, also referred to as "*collaborateurs de fond*" (advisers on substantive issues), must be subject to the same obligations regarding declarations of offices held as those applicable to Ministers, members of parliament and other political officials (see below). This concept of "*collaborateurs de fond*" offers a useful criterion for distinguishing between the influential members of units and secretariats and employees performing lower level duties.

33. The GET notes the absence of clear rules governing the employment of members of strategy units. As stated above, the selection of such personnel is entirely at the discretion of the Minister/State Secretary and/or political party concerned. Some of them work part-time – sometimes very part-time: as little as 10% according to certain sources – with no restrictions on their other activities. There are no procedures for checking their integrity and no arrangements for avoiding possible conflicts of interest arising from their other activities, except for heads and deputy heads of private offices and heads of management bodies of members of the federal government (hereafter the directors) who are subject to the Code of Conduct for public office holders. This absence of clear rules also extends to the duties performed by these staff. For example, a former Minister has been convicted of employing personnel in her strategy unit to work on her election campaign, even though they were paid from the public purse and political parties are financed by the state. According to information received by the GET, political party meetings may have sometimes taken place in strategy unit premises. Such a mixing of functions must clearly be proscribed.

34. The GET has also observed a lack of transparency in the composition of strategy units and the remuneration of their members. Their appointments are not made public. Repeated requests from the media and civil society for information on the composition of strategy units and the duties of their members have led to some progress since the composition of such units now appears on certain internet sites.<sup>10</sup> However, it is not possible to establish whether this information is complete or up-to-date, because there is no obligation to publish it<sup>11</sup>. According to the authorities, most of the areas of responsibility of strategy unit staff are specified on the [belgium.be](http://belgium.be) website, on which a usually updated list of strategy unit staff is kept.

35. The lack of transparency extends to the size of units and the remuneration received by their members. Some documents<sup>12</sup> attempt to lay down rules for one or other but in practice the sole constraint is the size of the budget allocated to Ministers or State Secretaries to employ such staff. There is no salary scale. The remuneration of each member of secretariat and strategic unit is mentioned in the ministerial appointment decree, which is then forwarded to the Staff and Organisation service of the relevant federal public department. Moreover, experts can be attached to units up to the limit of the funding available, which may itself be revised.

36. In the light of the foregoing, **GRECO recommends that (i) rules be laid down setting out the conditions governing the direct recruitment and employment of members of strategy units that**

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<sup>10</sup> [www.belgium.be](http://www.belgium.be) and [www.cabineto.be](http://www.cabineto.be).

<sup>11</sup> According to the conclusions, in 2017, of the House of Representatives' "Renouveau Politique" working group, it is proposed that the House concludes a protocol with the (new) government in order for a regularly updated list of the composition of strategy units to be published on the [belgium.be](http://belgium.be) website. The working group preferred a protocol to a legislative initiative as it is a flexible instrument which has proved its worth in the Flemish Parliament.

<sup>12</sup> See in particular, the directives for secretariats, the general policy co-ordination unit, the general policy units and the strategy units, issued by the Chancellery of the Prime Minister on 24 February 2017, which include instructions on the size of these bodies and their maximum salaries. However, ministers and state secretaries may, within the limits of their global budgetary resources allocated for the entirety of these bodies, be granted exemption from these instructions with the Prime Minister's agreement.

**take account of the risks relating to integrity and conflicts of interest and (ii) the names and duties of all "collaborateurs de fond" be published on the government's internet sites**, on the understanding that their interests, outside activities and remuneration are made fully transparent through their declarations of interests (see paragraph 95 and recommendation xii below).

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

#### *Anticorruption and integrity policy*

37. There is no policy on preventing corruption and promoting integrity aimed specifically at PTEFs. The Code of Conduct for public office holders and the opinions of the Federal Ethics Commission apply to some of them only, as seen hereafter. There is also a memorandum on "federal preventive integrity policy", approved by the Council of Ministers on 30 June 2006, which includes several key points concerning the fostering of integrity. However, the memorandum applies to senior officials of the federal public services (the name given to ministries since the COPERNIC reform) and not to PTEFs. Nor are any steps taken to check out PTEFs' integrity or to carry out detailed inquiries on the subject.

38. There has been no general assessment of the main corruption risk factors or of the machinery for risk management applied to PTEFs. In connection with this gap in the system, the Federal Administration Audit Commission (CAAF) stated in its report to the government on the functioning of the federal internal audit system in 2018: *"Although some references have been made to an integrity policy, few institutions place specific emphasis on the risks of fraud in their internal operations. Good governance that takes account of ethical concerns requires an overall approach to the risks of fraud. The CAAF suggests that all federal institutions take explicit account of fraud risks in their internal control procedures"*.

39. The GET is firmly convinced that the prevention of corruption among PTEFs must be strengthened. According to one of the people with whom the GET spoke, such matters are not at the centre of the Belgian political culture or agenda. Rules on PTEFs' integrity are more or less non-existent, as the following sections of this report will show. There are very few regulations on incompatibilities, conflicts of interest and gifts and none on relations with third parties, revolving door practices and so on.

40. The GET considers that this is a significant shortcoming that must be rectified. The process should involve a detailed analysis of areas where there are particularly high risks of conflicts of interest and corruption. Such an analysis would help to make political leaders aware of the added value of an integrity promotion strategy, which does not appear to be the case at present. It would also highlight the fact that corruption is not confined to giving and receiving bribes but also entails the impartiality of decisions taken by the government. It should of course be extended to take account of the role of Ministers' "collaborateurs de fond". **GRECO recommends that a coordinated strategy be drawn up, based on a risk analysis, aimed at promoting the integrity of persons performing top executive functions.**

#### *Regulatory framework and ethical code*

41. There are several laws and regulations on ethical standards and rules of conduct, particularly the Royal Decree of 2 October 1937 on the status of public officials<sup>13</sup> (hereafter the public service

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<sup>13</sup> [https://fedweb.belgium.be/sites/default/files/1937-10-02%20KB\\_AR%202017-03-21\\_%20statuut\\_statut.pdf](https://fedweb.belgium.be/sites/default/files/1937-10-02%20KB_AR%202017-03-21_%20statuut_statut.pdf)

statute), circular 573 on ethical standards for officials of the federal administrative public service<sup>14</sup> and the Act of 6 January 2014 establishing a Federal Ethics Commission and containing the Code of Conduct for public office holders.<sup>15</sup> However, none of these documents apply to Ministers.

42. The Code of Conduct for public office holders (mandataires/mandaathouders)<sup>16</sup> of 15 July 2018, appended to the Act of 6 January 2014, is applicable to heads and deputy heads of strategic bodies of federal public services, as well as to directors. It is not applicable to other members of strategic bodies.

43. The absence of an ethical code applicable to Ministers and members of strategy units is clearly a major shortcoming that no doubt reflects the lack of priority accorded to the integrity of persons occupying top executive functions in Belgium. Such a code is therefore required and could be based on the results of the risk analysis recommended above. It should include rules on preventing and managing conflicts of interest, the receipt of gifts, outside activities and financial interests, relations with third parties, particularly lobbyists, and the management of confidential information. More detailed recommendations on these various questions are set out below in the relevant sections of the report<sup>17</sup>. The code should draw on examples and include detailed explanations. It should have the dual role of providing an ethical framework for the activities of Ministers and members of strategy units while at the same time clarifying in the public mind what citizens are entitled to expect from the PTEFs in whom they place their trust. Moreover, in line with GRECO's current practice, such a code should be accompanied by implementation machinery, to ensure that PTEFs comply with the rules laid down and are held to account in cases where they fail to do so.

44. The GET welcomes the fact that heads and deputy heads of strategy units as well as directors are covered by ethical rules. It would therefore be logical for other members of strategic bodies to be subject to the integrity rules drawn up for PTEFs in situations where they can have an influence on decisions taken by Ministers.

45. Therefore, **GRECO recommends that (i) an ethical code be adopted for Ministers and steps be taken to ensure that members of strategic bodies are subject to a clear and harmonised ethical framework, and (ii) that the code or codes is/are accompanied by supervisory arrangements and appropriate sanctions.**

#### *Awareness-raising*

46. No specific arrangements or activities exist to make PTEFs aware of ethical issues.

47. The Administrative ethics and good practice office (BEDA/BAED) plays a preventive role in monitoring integrity in the federal public service. It has a range of awareness-raising tools at its disposal, such as workshops to consider real-life cases, an e-learning module and consultations on problems relating to multiple interests and posts, but its activities are aimed at public officials and not PTEFs.

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<sup>14</sup>[http://www.ejustice.just.fgov.be/cgi\\_loi/loi\\_a1.pl?language=fr&la=F&cn=2007081731&table\\_name=loi&&caller=lis t&F&fromtab=loi&tri=dd%20AS%20RANK&rech=1&numero=1&sql=%28text%20contains%20%28%27%29%29](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&la=F&cn=2007081731&table_name=loi&&caller=lis t&F&fromtab=loi&tri=dd%20AS%20RANK&rech=1&numero=1&sql=%28text%20contains%20%28%27%29%29)

<sup>15</sup> [http://www.lachambre.be/kvvcr/pdf\\_sections/deonto/Loi du 6 January 2014 portant creation CFD.pdf](http://www.lachambre.be/kvvcr/pdf_sections/deonto/Loi du 6 January 2014 portant creation CFD.pdf)

<sup>16</sup> [http://www.lachambre.be/kvvcr/pdf\\_sections/deonto/Code de deontologie des mandataires publics.pdf](http://www.lachambre.be/kvvcr/pdf_sections/deonto/Code de deontologie des mandataires publics.pdf)

<sup>17</sup> See paragraphs 76, 83, 88 and 127.

48. The Federal Ethics Commission<sup>18</sup> was established under the aforementioned Act of 6 January 2014. It has twelve members, who are former judges, academics, former members of parliament and former public office holders. It is a standing body answerable to the House of Representatives and is allocated its own budgetary allowance in order to ensure its independence. It gives confidential advice on ethical matters at the request of individual public office holders, and recommendations of a general nature of its own motion or at the request of the House, the Senate or the Government.<sup>19</sup> Heads and deputy heads of strategic bodies as well as directors come within the definition of public office holders. Since August 2018, it has also been empowered to give confidential opinions at the request of Ministers or State Secretaries. To date, it has issued only a few individual confidential opinions, mainly to members of federal assemblies but also to the director of the secretariat of a minister<sup>20</sup>. In 2019, it also organised an information campaign aimed at persons subject to the Code of Conduct for public office holders, including heads and deputy heads of strategic bodies, as well as the directors.

49. The GET welcomes the activities of the Federal Ethics Commission and its newly acquired authority to issue confidential opinions at the request of Ministers or State Secretaries. However, it notes that so far no opinions have been requested by such persons. Some members of strategy units in contrast do not have access to such a source of confidential advice. Moreover, the commission's general opinions only apply to PTEFs subject to the Code of Conduct for public office holders. In the light of the recommendation on the establishment of an ethical framework for PTEFs, the Belgian authorities might usefully consider installing internal government awareness-raising machinery. Therefore, **GRECO recommends (i) ensuring that all persons exercising top executive functions have access to mechanisms for promoting and raising awareness of integrity matters, including confidential advice and (ii) that these persons receive training when they take up their duties and at regular intervals thereafter.**

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

### *Access to information*

50. Article 32 of the Constitution establishes the principle that administrative decisions must be published. In the case of the federal authorities, the principle is embodied in the Act of 11 April 1994 on disclosure of administrative information.<sup>21</sup> This requires administrative authorities to make documents and information available to the public. The GET notes that Belgium has signed the 2009 Council of Europe Convention on Access to Official Documents (CETS 205), but has not ratified it. It encourages the Belgian authorities to do so rapidly.

51. The government's official site<sup>22</sup> gives the public access to information such as the composition and functioning of the government, government agreements, declarations and general news items and Council of Ministers decisions. Information on the activities of the government and the federal public services is also available on the Prime Minister's site<sup>23</sup> and those of the federal public services.

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<sup>18</sup> <http://www.fed-deontologie.be/>

<sup>19</sup> The opinions of the Federal Ethics Commission are published on <http://www.dekamer.be/kvvcv/showpage.cfm?section=deonto&language=fr&story=publication.xml>, except when an individual has refused the anonymous publication of confidential advice.

<sup>20</sup> See page 3 of the 2018-2019 Annual report of the Federal Ethics Commission: [https://www.dekamer.be/kvvcv/pdf\\_sections/deonto/Rapport\\_annuel\\_CFD\\_2018\\_2019.pdf](https://www.dekamer.be/kvvcv/pdf_sections/deonto/Rapport_annuel_CFD_2018_2019.pdf)

<sup>21</sup> See federal commission on access to documents: <https://www.ibz.rrn.fgov.be/fr/commissions/publicite-de-ladministration/introduction/> and the Belgian official journal of 30 June 1994 (Numac 1994000357).

<sup>22</sup> [https://www.belgium.be/fr/la\\_Belgium/pouvoirs\\_publics/autorites\\_federales/gouvernement\\_federal](https://www.belgium.be/fr/la_Belgium/pouvoirs_publics/autorites_federales/gouvernement_federal)

<sup>23</sup> <http://www.premier.be/fr/conseil-des-ministres>

52. According to information supplied to the GET, the federal public services vary in the extent to which they actively publish information on the internet and grant access to administrative documents, despite positive decisions of the Federal Commission on Access to Administrative Documents (Federal CADA), in response to requests from civil society. Some public services appear to make access to a document conditional on demonstration of a specific interest, even though Section 4 subparagraph 2 of the Act of 11 April 1994 makes it clear that such an interest is necessary only in the case of personal data. The authorities have confirmed that this rule is of general application. Journalists have also reported a hardening of relations between the media and the political world and increasing difficulty in securing certain information. The GET wishes to emphasise that public and media access to information on the activities of government and PTEFs is a fundamental aspect of civil society monitoring of the executive. It encourages the authorities to reiterate the importance of this principle within the federal public services.

53. The GET learned on its on-site visit that it was not clear that the 1994 legislation on access to information extended to the various strategic bodies. It refers to Section 14 of the Council of State Act to determine the administrative authorities to which access to information applies, but this section of the legislation is not precise, since it simply refers to “various administrative authorities”. At all events, the Federal CADA does not treat strategy units as administrative authorities for the purposes of the 1994 Act, whereas the relevant CADAs for the federated entities appear to take the opposite standpoint. Therefore, **GRECO recommends ensuring that the various strategy units come within the scope of the legislation on administrative disclosure of information.** In particular, this would require members of strategy units to use the official messaging system of the departments of state rather than private systems for their communications.

54. One corollary of the uncertainty as to whether the legislation on disclosure of administrative information covers strategy units is that Ministers’ files and archives disappear when they leave office. Despite the decision of the Council of Ministers dating from 2007 requiring these documents to be transferred to the Crown general archives and/or an approved documentation centre, this practice appears to continue, not least in connection with scandals such as “Kazakhgate” (see the relevant section). The GET notes that this practice – which is permitted by law since the legislation on the archives does not apply to cabinets, which are not considered to be state administrations and whose archives fall under private law – poses a threat to the correct management of government information and the right of access to such information. It also makes it more difficult to ensure that Ministers and their teams are accountable for their activities. **GRECO recommends ensuring that documents produced by Ministers and their strategy units are conserved in an appropriate manner and that they are available to their successors to ensure that affairs are properly conducted.**

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

55. Draft legislation can be consulted by the public after publication on the House of Representatives’ website. In practice, such publication takes place a few days after the relevant bill is tabled in Parliament, the time needed to complete the page layout and secure the government’s approval of the final version.

56. There is no obligation for the public to be consulted on draft legislation presented by the executive. However, certain federal public services do choose to organise public consultations. Moreover, there is a statutory requirement to consult specific target groups in particular fields.

57. The GET notes that the government and the federal public services have wide discretion to decide whether or not the public should be consulted on draft legislation. It reiterates that transparency of the law-making process is an important component of anticorruption policy. It would therefore be appropriate, in the interests of foreseeability and transparency, for criteria to be laid down and effectively applied to ensure that such consultations take place, and that the results of such consultations are published. Adequate time would be needed to collect all the necessary information. Therefore, **GRECO recommends that (i) steps be taken to ensure an appropriate level of consultation on government draft legislation, and (ii) the results of these public consultations are published online in due time and are easily accessible.**

#### *Third parties and lobbyists*

58. There are no rules governing the relationship between some PTEFs and lobbyists and other third parties seeking to influence their decisions. Heads and deputy heads of strategy units and the directors are subject to the Code of Conduct for public office holders, Article 4 of which requires them to inform the relevant authorities of any facts and obligations likely to interfere with their prescribed duties, or any unauthorised interference. They are also required to make public any membership of or links with companies, states or other bodies to which they have a duty of loyalty which could impede the exercise of their functions.

59. On 13 December 2017, the Federal Ethics Commission issued an opinion on the relationship between public office holders and third parties in the formulation of legislation.<sup>24</sup> In particular, it called for a legal framework for relations between public office holders and third parties, accompanied by oversight arrangements and sanctions.

60. The GET welcomes these recommendations, but they must be supplemented by rules governing the whole range of contacts between PTEFs and lobbyists and other third parties. Such contacts must also be more transparent. It should be noted in this context that draft legislation has been tabled to establish a register of government lobbyists but it has lapsed following the end of the previous parliament's proceedings. On its own initiative, the Federal Public Service Justice named all the experts who had been consulted on a particular bill. This is a welcome example of good practice and should become widespread. **GRECO recommends that (i) rules and guidelines be introduced on how persons exercising top executive functions should manage their contacts with lobbyists and other third parties seeking to influence government processes and decisions; and (ii) steps be taken to make the purpose of such contacts more transparent, by identifying the persons with whom, or on behalf of whom, the contact has taken place and the specific subject matter(s) of the discussions.**

#### *Control mechanisms*

61. In the case of the federal public authorities, responsibility for internal oversight is laid down in the Royal Decree of 17 August 2007 on internal audit activities in certain federal executive departments.<sup>25</sup> This makes internal oversight the responsibility of everyone in the organisation, with specific responsibilities attaching to senior managers and others exercising a management function.

62. The Federal Internal Audit Department (FAI/FIA) assesses the reliability of the internal control system, risk management and good governance within each of the federal public services.

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<sup>24</sup> [http://www.lachambre.be/kvvcr/pdf\\_sections/deonto/CFD\\_avis\\_2017\\_2.pdf](http://www.lachambre.be/kvvcr/pdf_sections/deonto/CFD_avis_2017_2.pdf)

<sup>25</sup> [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2007081760&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2007081760&table_name=loi)

The auditors discuss the results of their audits with heads of services and, where appropriate, relevant divisional managers, after which they draw up recommendations for improving the oversight arrangements and correcting shortcomings. The recommendations are made to the head of each federal service and to the managers concerned. Summaries are sent to the Minister responsible for the service. The FAI/FIA carries out its activities under the supervision of the audit committee of the federal administration.

63. The Audit Committee of the Federal Administration (CAAF) receives and considers the annual reports submitted by those responsible for internal control. On the basis of these reports, it then sends individual reports, accompanied by recommendations for improvements, to the federal bodies concerned. It also draws up a general report for the government, which offers the latter an overview and stocktaking of internal review at federal level.

64. Draft decisions exceeding a certain financial threshold<sup>26</sup> and/or requiring the signed approval of the Minister responsible for the budget or the public service, or the approval of the Council of Ministers, are subject to *ex ante* control by the Treasury (*Inspectorate of Finance*). Such control is not confined to financial aspects but also includes compliance with legal provisions to prevent corruption in the field of public procurement. Treasury audit can lead to a favourable opinion, an unfavourable opinion (effectively blocking the expenditure) or a conditional opinion, which is unfavourable in practice unless the proposer takes steps considered sufficient to meet the Treasury's reservations.

65. For such a blocking to be lifted, following an unfavourable opinion or failure of the proposer to meet the conditions laid down in a conditional opinion, the proposal must be forwarded to the Minister responsible for the department concerned, so that a reasoned application can be submitted to the Minister for the Budget or, where appropriate, the Minister for the Public Service. In practice, since certain proposals must in any case be submitted to one or other of these Ministers, because of their nature or the costs involved, the prior ministerial approval and appeal procedures may implicitly be merged. In other words, it is presumed that if the Budget or Public Service Minister has given financial approval to a proposal submitted by one of his or her colleagues that is subsequently subject to an unfavourable or conditional Treasury opinion, the Budget or Public Service Minister has already found in favour of the "implicit" subsequent appeal. This practice particularly applies to proposals that must be submitted to the Council of Ministers.

66. It is forbidden to divide proposals to avoid the thresholds. Moreover, in periods of financial stringency or caretaker government the upper limits are reduced. In such cases, in addition to applying the normal criteria the Treasury must ensure that proposals remain within the limits laid down under the financial stringency policy, which the executive imposes on itself, or in the context of a caretaker government, where the criteria are laid down in the constitution.

67. Ministers may also themselves ask the Treasury to carry out investigations, one of whose purposes may be to determine whether a procedure has entailed irregularities and if so, to identify those irregularities.

68. The Commitment Controller verifies that expenditures are correctly attributed, agreed budgetary appropriations are not exceeded, and regulatory provisions leading to the expenditure

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<sup>26</sup> For public procurements, 250 000 euros for open procedures, 125 000 euros for restricted procedures and 31 000 euros for negotiated procedures without prior publication of a notice. Subsidies, grants and capital injections are submitted to the Treasury except for entirely regulated subsidies, optional subsidies inferior to 25 000 euros explicitly named in the budget and optional subsidies inferior to 3 100 euros.



were complied with. S/he issues a preliminary visa for allocation ("*visa d'engagement*"), which allows for the reservation of necessary budgetary appropriations for expenditures, and a visa on payment ("*visa de liquidation*") assessing that the service requested was indeed rendered. Expenditures inferior to a specified threshold are however exempt from the preliminary visa. Moreover, the Controller is to closely monitor the flow of engagement and payment and report to the Minister of Budget any irregularity in the consumption rate. Controllers are appointed by the King on a proposal by the Minister of Budget.

69. The Court of Auditors is concerned with financial control but also scrutinises the lawfulness of decisions and the proper use of public funds. It reviews the income and expenditure of the federal, community and regional governments and the provinces. The results of these three forms of scrutiny are the subject of regular reports to the various parliamentary assemblies. All of the department's publications are available on its website<sup>27</sup> and/or the sites of the parliamentary assemblies.

70. The House of Representatives is authorised to receive information on and monitor the federal government. It can seek information from Ministers about their management of the state:

- members of parliament can put written and oral questions to Ministers. Under the regulations of the Senate, since the sixth reform of the state, in 2014, senators can now only put written questions to members of the government;
- the House also has a right of investigation and can therefore establish committees of inquiry, under Article 56.1 of the Constitution. The Senate does not have a right of investigation but may, particularly at the request of the House, draw up reports on matters that also have implications for the communities and regions (Article 56.2 of the Constitution). These committees of inquiry can examine documents held by the executive.

71. The House also has exclusive power to exercise oversight of the federal government (Article 101 of the Constitution):

- the confidence given to the government when it is installed is conditional and can always be revoked by a constructive motion of no confidence – that is by the designation of another Prime Minister – or by the constructive rejection of a motion of confidence;
- on taking office, members of the government are required to inform the House of their overall policies. The document concerned sets out the strategic options and main lines of the new Minister's policy, in accordance with the agreement to form a government. The relevant House committees debate these presentations and may draw up recommendations;
- members of parliament have the sole right to put parliamentary questions to or otherwise challenge Ministers. The procedure may be concluded with a motion of confidence in the Minister or the government;

72. the House is empowered to approve or reject budgets and settle the final accounts (Article 174 of the Constitution). Ministers submit their proposed budgets accompanied by a general policy memorandum setting out their objectives, any financial adjustments, the resources to be activated and the timetable of implementation.

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<sup>27</sup> [www.ccrek.be](http://www.ccrek.be)

## Conflicts of interest

73. There are no regulations to prevent or resolve conflicts of interest affecting members of the federal government. In the past, some governments have issued directives on the subject but not the two most recent ones. In letters dated 24 February 2017 and 18 May 2017, the Prime Minister however asked members of the government to verify whether, because of their personal situation, they could find themselves in a situation of conflict of interest. They were reminded that should it be the case, it is their responsibility to declare it prior to deliberating any case concerning this issue. He asked them to subject all members of their strategy units, to whom the same rules apply, to the same scrutiny by taking into account their eventual mandates in order to prevent and avoid any conflict of interest. The authorities also state that, in practice, it is customary for members of the government who sit on the boards of private or public companies to resign their directorships or cease to exercise this role on taking up their position in the government.

74. The heads and deputy heads of strategy units as well as the directors are covered by Article 4 of the Code of Conduct for public office holders, which offers the following definition of a conflict of interest:

*“4.4. Conflicts of interest arise when public office holders have a particular or personal interest which could have an influence on the objective and impartial exercise of their official functions. When such a conflict of interest exists, the public office holders concerned are required to give notice of it in advance and, where appropriate, subsequently desist from taking any other action.*

*4.5. Particular or personal interests refer, in particular, to any real or potential benefit for the public office holders themselves, members of their family or their family environment. Particular attention must be paid to potential benefits for a spouse or partner, or for their children.”*

75. To prevent conflicts of interest, public office holders must report *“throughout their period of office, to the competent authorities, any facts or obligations likely to interfere with or influence the performance of their duties”* and must disclose any unauthorised interference. They must also disclose, *“in advance, and throughout their period of office, any affiliation, association or link with, or membership of companies, states or other bodies to which they are bound by a duty of loyalty which could impede the performance of their duties”*. Finally, they may not *“undertake activities that conflict with the legitimate interests of the institution in which they are performing their duties”* (Articles 4.11, 4.12 and 4.13).

76. Other members of strategy units are not bound by any rules, even though some of them perform their duties in strategy units on a part-time basis, sometimes very part-time, which considerably increases the risk of conflicts of interest with their other activities.

77. What makes the need for specific rules on conflicts of interest among PTEFs even more pressing is the fact that the previous parliament’s proceedings were punctuated by several scandals such as the so-called Kazakhgate (see the “Context” section of this report), and that allegations of conflicts of interest have been directed at the heads or members of certain Ministers’ strategy units.<sup>28</sup> These rules should form part of the ethical framework recommended above (see paragraph 45 and recommendation iii). They should include practical advice and real-life examples of situations that can arise for persons working in the government or its

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<sup>28</sup> See, in particular, <https://archive.ptb.be/articles/la-cheffe-de-cabinet-de-reynders-impliquee-dans-les-paradis-fiscaux> and <https://plus.lesoir.be/36714/article/2016-04-21/une-double-casquette-genante-au-cabinet-marghem>

departments. In addition, and irrespective of any disclosure obligations when taking up a post, PTEFs should declare any conflicts of interest as and when they arise. Therefore, **GRECO recommends that an ad hoc reporting requirement be introduced for persons occupying top executive functions whenever situations of conflict between their private interests and their official duties arise.**

### **Prohibition or restriction of certain activities**

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

78. Members of the royal family cannot serve as Ministers (Article 98 of the Constitution). Certain offices are also incompatible with the post of Minister. One example is membership of a body charged with monitoring the work of the executive, such as the Court of Auditors (Article 2 of the Law of 29 October 1846 on the organisation of the Court of Auditors).

79. Moreover, Article 50 of the Constitution makes parliamentary and ministerial offices incompatible. Members of parliament appointed as Ministers must cease to sit in parliament but regain their seats when their period in office ends. According to Article 2 of the Law of 6 August 1931 Ministers and former Ministers are forbidden from referring to their ministerial positions in publications associated with profit-making companies.

80. In contrast, there are no restrictions on the outside activities of strategy units staff, many of whom do undertake such activities, according to information supplied to the GET. Finally, the aforementioned Article 4 of the Code of Conduct for public office holders applies to heads and deputy heads of cabinets, as well as to directors. They must disclose *“in advance, and throughout their period of office, any affiliation, association or link with, or membership of companies, states or other bodies to which they are bound by a duty of loyalty which could impede the performance of their duties”*. Finally, they may not *“undertake activities that conflict with the legitimate interests of the institution in which they are performing their duties”*.

81. There are no specific rules on the holding of financial interests.

82. As in the case of conflicts of interest, the GET believes that the future ethical framework applicable to PTEFs must include specific rules on outside activities. Particular attention should be paid to the activities of part-time members of strategy units. Reference is made to paragraph 45 and recommendation iii.

#### *Gifts*

83. Ministers are not subject to any rules on receiving gifts, invitations or other benefits. In the case of strategy units, once again only heads and deputy heads of cabinets and directors are covered by the Code of Conduct for public office holders (Articles 4.6 and 4.7). This text prohibits the officials concerned from soliciting or receiving any benefits, other than gifts of purely symbolic value. The Code of Conduct for public office holders adds that if refusal to accept such a gift is likely to pose a problem, the individual concerned must pass on the gift to a Belgian charitable organisation of his or her choice.

84. The aforementioned rules are deficient both in content and in their personal scope. For example, there is no definition of the concept of a symbolic gift, which can lead to differences of opinion on what constitutes an acceptable present. The concept of benefit should be illustrated by practical examples, particularly with reference to invitations and sponsorship. Finally, the GET

considers that, in the interests of transparency, there should be a system for declaring and registering gifts received by PTEFs in their professional capacity. This would allow the public to be regularly informed about such gifts and the donors' identity. Such a scheme should, of course, apply to all PTEFs, Ministers and members of strategy units. In the light of the foregoing, **GRECO recommends that a full set of rules be drawn up on gifts and other benefits for persons occupying top executive functions, in the form of practical and relevant directives requiring them to declare gifts and other benefits, and that this information be made available to the public.**

#### *Contracts with state authorities; misuse of public resources*

85. There are no specific rules on either contracts with state authorities. As to the misuse of public resources, point 4.18 of the Code of Conduct for public office holders stipulates that public money must be spent in a reasonable manner and that community assets must be managed prudently.

#### *Misuse of confidential information*

86. Article 4.20 of the Code of Conduct for public office holders requires those concerned to comply with the rules on the confidentiality of documents. It therefore only concerns PTEFs subject to this text. The "Guidelines for the secretariats, policy general coordination unit, general policy units and strategic units" issued by the Chancellery of the Prime Minister on 24 February 2017 lay down the procedures to follow for the handling of classified documents. The GET considers that the question of confidentiality, not just of documents but also of information obtained in the course of government activities, must also form part of the ethical framework recommended in paragraph 45.

#### *Post-employment restrictions*

87. The only existing rule on this subject appears in Article 4.21 of the Code of Conduct, and concerns only PTEFs who are subject to it. It simply states that the latter "*when they relinquish their duties, must comply with the obligations arising from their office, in particular the duties of honesty and caution concerning acceptance of certain posts or gifts*".

88. The GET considers this rule to be quite inadequate. It also points out that there are almost no rules that apply to Ministers<sup>29</sup> and none to ordinary members of strategy units. In the course of the on-site visits, it was informed of numerous examples of revolving doors practices, involving both former ministers and ex-members of strategy units. A former Justice Minister had joined a telecommunications firm and a former head and a member of the Finance Minister's strategy unit had established a legal practice specialising in advising multinationals making use of the *excess profits rulings* system, despite adverse rulings of the European Union. A former head of the strategy unit of the Minister for Defence and the Public Service had become a lobbyist for the Lockheed Martin aerospace company, which had links with this ministry.<sup>30</sup> The principal medicines adviser to the health Minister had left office for an important post in a pharmaceutical company with which she had previously negotiated on a major issue.

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<sup>29</sup> Ministers are only prohibited from performing supervisory and administrative duties in a company holding a concession granted by State while s/he was a minister (art. 4 of the abovementioned law of 6 August 1931).

<sup>30</sup> <https://www.levif.be/actualite/Belgium/une-proposition-de-loi-pour-contrer-le-conflit-d-interets/article-normal-819365.html>

89. The GET draws attention to the importance of controlling activities of members of the executive after they leave their posts, a point made by the European Ombudsman in a feature article in GRECO's 2016 annual report.<sup>31</sup> In view of the absence of binding rules covering all PTEFs, **GRECO recommends that (i) for a certain period, persons occupying top executive functions be required to inform an appropriate body of any new professional activities entered into, and (ii) following assessment, such activities be regulated or prohibited, as appropriate, to avoid any suspicion of conflict of interest when they concern a field of activity subject to authorisation or scrutiny by the body that the individual is leaving.**

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

#### *Declaration requirements*

90. Since 1 January 2005, a whole series of public office holders, including ministers, state secretaries, heads and deputy heads of strategy units, have been required to lodge with the registrar of the Court of Auditors a list of their offices held, duties and occupations, together with a declaration of their assets. As of 2019, this obligation has been extended to federal government staff responsible for advising on policy, political strategy and communication – “*collaborateurs de fond*” – and government representatives on the boards of companies and other legal persons.

91. The subject is governed by two ordinary and two special laws. The ordinary and special laws of 2 May 1995 make it obligatory to provide this information; the ordinary and special laws of 26 June 2004 specify the details of this obligation and the duties of the Court of Auditors. The ordinary laws are applicable to public office holders and public officials associated with the federal tier and the German-speaking Community while the special laws are concerned with persons associated with the other regional and community entities. This reform is intended to make the political environment more transparent.<sup>32</sup>

92. Asset declarations must be lodged on 1 October by all the public office holders who have taken up, renewed or left at least one of the offices concerned in the previous year. There is no compulsory form to complete but the guidelines for those concerned<sup>33</sup> contain a model form that they can use. Under the law, persons must declare all assets, such as bank accounts, shares and securities, all fixed property and moveable assets of value, such as antiques and works of art, at 31 December of the previous year. This also concerns assets held in various forms of co- or joint ownership. Declarations are made to the Court registrar in writing in a sealed envelope. Asset declarations are not published, and can be consulted only by an investigating judge as part of a criminal investigation of the individual concerned in connection with his or her post or duties.

93. As noted in GRECO's 4th round evaluation report: “No obligation to update declarations of assets is prescribed, even if they vary significantly, for example as a result of a change in marital status; the Belgian authorities indicate that the drafting history of the provisions confirms this. Nor does the apparatus cover a) the amounts of income and indemnities derived from activities or from other sources, for example returns on assets or business investments, etc.; b) activities remunerated on an ad hoc basis such as consulting work; c) commercial contracts with the state authorities; d) offers of activities.”

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<sup>31</sup> <https://rm.coe.int/seventeenth-general-activity-report-2016-of-the-group-of-states-against/168071c885>

<sup>32</sup> <https://www.ccrek.be/FR/MandatsPatrimoine.html>

<sup>33</sup> <https://www.ccrek.be/FR/Mandats/Depot.html#vademecum>

94. The declaration of mandates, managerial functions or professions is lodged annually on 1 October - since 2019 in electronic form on the Court of Auditors' site. It covers all the mandates, managerial functions and professions of those concerned over the previous year, whether or not they were remunerated, in the public sector or with other legal persons, associations or institutions in Belgium or abroad. Since 2019, following a 4th round recommendation by GRECO, remunerations received must be declared. A distinction is made between "declarable" activities, for which gross annual remuneration must be declared, and "non-declarable" ones, for which a simple order of magnitude of remuneration, within legally laid-down limits, suffices. Moreover, information about declarable activities is recorded directly online by designated "informants" within each organisation, who are responsible for ensuring that the information is correct. The designated informant for the federal government is the Secretary of the Council of Ministers.

95. The systems for declaring assets and declaring functions have already been assessed by GRECO as part of its 4<sup>th</sup> round evaluation, since they also apply to members of parliament. The recommendations made at that time have led to certain improvements, which are to be welcomed. This applies particularly to the amount of income received – even though private income is expressed only as falling within a particular range. The GET also considers that the categories of PTEFs subject to declaration requirements are now satisfactory, following their January 2019 extension to Ministers' "collaborateurs de fond".

96. On the other hand, the published and scrutinised declarations do not offer a complete picture of potential conflicts of interest, or make it possible to identify suspected unlawful enrichment. These shortcomings were already noted by GRECO in its 4<sup>th</sup> round evaluation but the failure to fully implement the corresponding recommendations means that they still apply. For example, declarations of assets are neither published nor checked. They are lodged with the Court of Auditors in a sealed envelope which is opened only at the request of an investigating judge as part of a criminal investigation. Moreover, the concept of functions should cover outside activities, particularly in the case of part-time staff of "collaborateurs de fond". The prior activities of Ministers and their "collaborateurs de fond" should also be declared since these may also be sources of conflicts of interest. Finally, some of the assets of spouses and dependent children of PTEFs may also be of relevance when determining declarers' real assets and identifying possible unlawful enrichment. **GRECO recommends (i) that the published declarations of persons occupying top executive functions also include relevant information on their assets, including liabilities, their previous activities and their outside activities; (ii) considering also including information on these persons' spouses and dependent members of their family (on the understanding that such information would not necessarily have to be published).**

#### *Review mechanisms*

97. The Court of Auditors holds the list of PTEFs' mandates, managerial functions and professions, and their asset declarations. It is responsible for monitoring, archiving and publishing them.

98. It has no authorisation to consult the asset declarations and simply makes sure that they have been lodged within the legally specified deadlines.

99. In the case of lists of mandates, functions and professions, the Court of Auditors makes sure that declarations, from both informants and persons concerned, have been submitted on time and that all the compulsory information has been supplied in electronic form. It also checks whether all those liable to make such declarations have in fact done so. The unit of the registry

responsible for the lists of mandates and asset declarations employs twelve persons to carry out the relevant checks.

100. The list of mandates, functions and professions is published by the Court of Auditors in the Belgian Official Gazette (*Moniteur belge/Belgisch Staatsblad*) and on its internet site no later than 15 February of the year following the declarations. At the same time, it publishes the list of office holders who are in default. These lists were published for the year 2017 in the Official Gazette of 14 August 2018.<sup>34</sup>

101. Informants and those directly concerned who fail to meet their obligations are liable to an administrative fine, which is within the jurisdiction of the Court of Auditors, or a criminal penalty.

102. The legislation on mandates provides for formal proceedings to secure corrections to lists that have been submitted, and those that have already been published. This procedure is initiated in the Court of Auditors; it continues before the relevant parliamentary monitoring committee and may need to be brought before the criminal courts. However, there cannot be a dual penalty – administrative and criminal – for the same offence.

103. The GET notes that the declarations system is deficient from the standpoint both of the timing of publication and the Court of Auditors' oversight. The timetable for declarations and publication in force since 2019 effectively results in publication of mandates two years after their exercise. Mandates exercised in 2018 will therefore be published in February 2020. This delay significantly reduces the value of declarations as a means of combating conflicts of interest.

104. The Belgian authorities explained in the context of the 4<sup>th</sup> round compliance procedure that a later deadline was established in 2019 because of the publication of remunerations, which must report the gross annual amounts recorded on employers' tax returns. These tax returns are not available until 30 June of each year, the final date for submitting tax declarations. The GET notes these explanations but calls on the Belgian authorities to find ways of expediting publication of declarations. For example, they could be completed in their entirety by those concerned, bypassing the informants.

105. As for the oversight aspect, the Court of Auditors simply checks that the statutory deadlines have been met and that declarations are complete. According to those with whom the GET spoke, the Court lacks the legal and technical means to determine whether mandate declarations are exhaustive. For example, it does not have access to the companies' or tax registers. It cannot therefore check whether a PTEF is a board member of a private company. Moreover, even when the Court of Auditors is informed of incomplete mandate declarations, it does not have investigative powers. According to the authorities, the dispositive relies on the publicity of mandates and on the citizens' power of control based on this publicity. Thus, a citizen initiative<sup>35</sup> has already recorded more than 1100 mandates, managerial functions and professions at federal and regional levels that office holders failed to declare between 2004 and 2017.

106. Although the amendments to the legislation in response to GRECO's 4<sup>th</sup> round recommendations have given the Court of Auditors wider powers to supervise mandate declarations, particularly the right to impose administrative penalties on offenders, it does not appear to be applying them very actively. In any case, the declaration and monitoring system as it currently stands, in particular the fact that the Court of Auditors cannot access all the relevant

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<sup>34</sup> [http://www.ejustice.just.fgov.be/mopdf/2018/08/14\\_1.pdf](http://www.ejustice.just.fgov.be/mopdf/2018/08/14_1.pdf)

<sup>35</sup> [www.cumuleo.be](http://www.cumuleo.be)



information, does not allow it to exercise genuine oversight. As well as extending the subject matter of its oversight (see the previous recommendation), it should have the authority and sufficient resources to carry out checks that take account of PTEFs' other paid activities for which there is no institutional informant, in particular all their private and voluntary sector activities. Therefore, **GRECO recommends that declaration and oversight arrangements be substantially revised to ensure more rapid publication of these declarations, coupled with more active and effective oversight.** In the case of publication on the internet, links to the relevant declaration should be included on Ministers' biographical notices, as should be the case with members of parliament as of 2020.

## **Accountability and enforcement mechanisms**

### *Criminal proceedings and immunities*

107. Ministers of the federal government are subject to a special jurisdictional regime (Article 103 of the Constitution and the Act of 25 June 1998 on Ministers' criminal liability)<sup>36</sup> for offences committed in the course of their duties and offences committed outside the exercise of their duties, for which they are tried during their ministerial term of office. They are heard by the Court of Appeal in Brussels. Appeals against its decisions can be lodged only with the Court of Cassation (full court).

108. This means that actions against Ministers can be brought only by the Principal Crown Prosecutor at the Brussels Court of Appeal. He or she exercises the same powers vis-à-vis Ministers as those normally inherent, under the Code of Criminal Investigation, in the Crown Prosecutor. Similarly, the investigating judge in such proceedings is a judge of the Court of Appeal. As a consequence, if Crown Prosecutors find evidence of an offence committed by a Minister, they must immediately transmit the case files to the principal prosecutor's office.

109. Parliamentary authorisation to proceed is required in three cases: prosecutor's submission for the case to be heard, summons to bring the accused directly before the Court of Appeal and arrest, other than while an offence is being committed.

110. Investigation measures that entail coercion require the approval of a bench of three appeal court judges, one of whom is the investigating judge. The same applies, other than for crimes or offences discovered in the act, for warrants to appear before a prosecutor or judge, searches, seizures, data tracking and telephone intercepts, DNA sampling and body searches. The bench of three judges takes a majority decision.

111. There is no immunity or special criminal procedure for other PTEFs, except in cases where they are the joint perpetrators of or accomplices in offences committed by a Minister. Accordingly, under Section 29 of the legislation on Ministers' criminal liability, the accomplices in or joint perpetrators of a ministerial offence or the perpetrators of closely connected offences are prosecuted and tried at the same time as the relevant Minister. The GET is unaware of any cases in which Ministers have been found criminally liable.

112. It is recalled that the Council of Europe European Commission for Democracy through Law (Venice Commission) calls for extra caution and restraint in the interpretation and application of special procedures to hold members of Government criminally liable. In particular, and in

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<sup>36</sup>[https://www.lachambre.be/kvvcr/pdf\\_sections/publications/reglement/Responsabilit%C3%A9%20p%C3%A9nale%20-%20loi%20du%2025%20juin%201998%20NTC.pdf](https://www.lachambre.be/kvvcr/pdf_sections/publications/reglement/Responsabilit%C3%A9%20p%C3%A9nale%20-%20loi%20du%2025%20juin%201998%20NTC.pdf)



conformity with the principle of equality, special procedures should preferably be reserved for criminal acts committed in the exercise of official functions. Ordinary criminal acts, committed as a private citizen, should preferably be a matter for the ordinary criminal system<sup>37</sup>.

113. Article 29 of the Code of Criminal Investigation makes it obligatory for any public official who, in the course of duty, has knowledge of a crime or offence, to inform the prosecutor.

#### *Non-criminal enforcement mechanisms*

114. The Act of 15 September 2013<sup>38</sup> established a procedure for reporting suspected breaches of integrity in federal administrative authorities. The act was amended on 8 May 2019. The reporting system comprises an internal channel, a trusted person (PCI/VPI) appointed in each of the various federal administrations,<sup>39</sup> and an external channel, the Integrity Centre (CINT) of the Federal Ombudsman (or the Standing Committee for Monitoring Police Departments for staff of the federal and integrated police, see below). The CINT, which was established under the 2013 legislation, employs four forensic auditors: two French- and two Dutch-speaking. Since 2016, the ombudsman and the majority of federal administrations have signed agreements setting out the arrangements for co-operation between the ombudsman, trusted persons and the senior public officials concerned.

115. Suspected breaches of integrity are defined very broadly, to include:

- breaches of the law, official orders, circulars, internal rules and internal procedures incompatible with the public interest;
- decisions or actions creating an unacceptable risk to the life, health or safety of persons or the environment;
- serious breaches of professional obligations or the correct management of a federal administration;
- inciting officials to commit such acts.

116. Examples of breaches of integrity include irregularities in public procurement proceedings, misappropriation of funds, favouritism, unlawful instructions and any other irregular behaviour posing a serious threat to the public interest. The concept of breach of integrity therefore covers fraud and corruption, breaches of ethical codes, breaches of the rules governing conflicts of interest and infringements of the rules banning or restricting certain activities.

117. The Act of 15 September 2013 allows public officials, or persons who have left the public service within the previous two years, to contact either their organisation's PCI/VPI or the CINT. The reporting system exempts federal officials who have knowledge of a serious or lesser offence from the obligation to inform the Crown Prosecutor, as specified in Article 29 of the Code of Criminal Investigation<sup>40</sup>. This obligation is transferred to the PCI/VPI and the CINT, which are

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<sup>37</sup> [Report on the Relationship Between Political and Criminal Ministerial Responsibility, European Commission for Democracy through Law \(Venice Commission\), CDL-AD\(2013\)001](#)

<sup>38</sup> Act of 15 September 2013 on the reporting of suspected breaches of integrity in a federal administrative authority by a member of its personnel (Official Gazette of 4 October 2013, Numac: 2013002044)

<sup>39</sup> The internal channel is the subject of the Royal Decree of 9 October 2014 implementing Section 3§2 of the Act of 15 September 2013 on the reporting of suspected breaches of integrity in a federal administrative authority by a member of its personnel. So far, only 17 federal administrations have at least one such trusted person.

<sup>40</sup> However, Articles 30 and 31 of the Code of Criminal Investigation, which refer to attacks on the public safety or the life or property of an individual, remain applicable.

required to inform the Crown Prosecutor of any potential offence identified when dealing with a report.

118. Public officials must ask their PCI/VPI or the CINT for an initial opinion on the report they plan to make. This request for a first opinion is a compulsory stage in which the trusted person or integrity centre considers whether the report is admissible and whether there is sufficient evidence to support the suspicions of irregularities. Where appropriate, a favourable opinion is delivered and the official concerned can then confirm his or her report of a breach, after which an inquiry is opened by the CINT. In the event of an unfavourable opinion from the CINT, the proceedings are terminated and no inquiries are carried out.

119. The CINT has sole authority to conduct inquiries into reported irregularities. It is empowered to seek on-the-spot evidence, request any paper-based or electronic documents or other information it deems necessary and interview all the staff members concerned. Members of staff are also relieved of their obligation to maintain official confidentiality during CINT inquiries.

120. Following its inquiries, the CINT draws up a report of its findings and conclusions. The report is sent to the senior official of the administration concerned, or to the Minister if the official him or herself is involved in the breach of integrity in question.

121. The decision on what, if any, measures or penalties are required is solely the responsibility of the senior official, or if necessary, the Minister. The CINT does not monitor any measures taken or sanctions imposed.

122. The report may also include recommendations in the event of any malfunctioning or inadequacies in the internal oversight system or in existing procedures. The recommendations are intended to improve the functioning of the federal administration and/or reduce the risk of future breaches. The senior official concerned, or if appropriate the Minister, is responsible for giving effect to any recommendations. The CINT follows up progress on these recommendations.

123. The reporting system also offers protection for all federal officials acting as whistle blowers and for all the officials associated with inquiries and the trusted persons themselves. Protection starts on the date of the request for an initial opinion or involvement in an inquiry and continues for up to three years after closure of the inquiry report or a final judicial decision. Those concerned are protected against reprisals in any form connected with reporting their suspicions or collaborating in the inquiry. Protection is the responsibility of the CINT, which is authorised to take action in response to coercive measures against whistle blowers.

124. Based on the CINT inquiry report, the senior official or Minister concerned may decide to launch disciplinary proceedings or take any other corrective measures deemed appropriate.

125. The Federal Ombudsman submits an annual report on his or her activities to the House of Representatives. The annual report is also published and available to the general public.<sup>41</sup> The CINT's activities are described in anonymous form (subjects of inquiries with no mention of the administration or staff members concerned), to ensure confidentiality and respect for individual privacy.

126. The CINT's statistics record the number of inquiries conducted and their outcome: whether or not there was a breach of integrity finding. The CINT also reports on its end-of-inquiry

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<sup>41</sup> <http://www.federaalombudsman.be/fr/rapports>

recommendations and how the administration has responded to them. It does not produce statistics broken down by type of staff concerned, such as managerial functions and others, or on any penalties imposed or measures taken by the administration concerned.

127. Apart from the reporting system just described, since 1 January 2018 it has been possible to report certain forms of breach of integrity to the Federal Internal Audit Department (FAI/FIA), which carries out forensic audits in such areas as inventory control, prevention, detection and analysis of fraud. Referrals may be made by Ministers, public officials or ordinary members of the public. An agreement remains to be drawn up between the FAI/FIA and the CINT to clarify their relationship and avoid duplication.

128. The GET notes that the system for reporting breaches of integrity, as laid down in the Act of 15 September 2013, amended by the Act of 8 May 2019, seems to be fairly comprehensive. However, it has learnt that the legislation does not apply to ministerial strategy units. The CINT therefore has no authority to investigate suspected breaches of integrity in these bodies, even though it has been informed of at least one case of favouritism in recruitment to a Minister's private office. Therefore, **GRECO recommends that the legislation on reporting suspected breaches of integrity in federal administrative authorities be extended to cover strategy units.**

129. Regarding members of strategy units, in the event of breach of professional obligations or loss of confidence the Minister terminates their employment or their secondment to the cabinet. There are no non-criminal enforcement measures or penalties for Ministers. The GET refers to its recommendation in paragraph 45, calling for the future ethical code for PTEFs to be supplemented by supervisory arrangements and appropriate sanctions.

## V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

### Organisation and accountability of the police authorities

#### *Overview of the various law enforcement agencies*

130. Since 2001, there has been a single integrated police force (GPI), structured at two levels, federal and local. The two tiers are autonomous and answerable to distinct authorities, but operate in a complementary fashion. The Federal Police carry out administrative and criminal police duties right across the country, as well as providing support to local police units and their authorities. The 186 local police units undertake basic and first line police activities within their boundaries. They also carry out police task and missions for the federal authorities, with the same legal competence as the federal police. Every year, the federal State invests over 2 billion euros in the operation of the police force, of which 1 billion euro is dedicated to the integrated operation. This evaluation is concerned with the Federal Police.

131. The Federal Police Force is responsible to the Minister of the Interior with regard to its management and its administrative police functions. It is accountable to the Minister of Justice for its criminal police activities. The notion of operational independence is not explicitly mentioned in the Law of 7 December 1998 organising an integrated police service (LPI). The federal police has 12,145 employees, including some 2,500 non-police staff carrying out administrative and logistical duties. It is directed by a Commissioner General and has three Directorates General: two operational directorates – for criminal and administrative police respectively – and a Directorate General of Resources and Information, which is a cross-departmental body.

132. The office of the Commissioner General (CG) provides overall direction to and co-ordination of police activities. It ensures that the two tiers of police operate in an integrated fashion and that the Federal Police comply with the principles of speciality and subsidiarity. The commissioner's office includes the Directorate for International Police Co-Operation acting on behalf of all the police and 13 decentralised co-ordination directorates that act as a contact point for local police districts requiring federal support. These directorates also manage the "Communication and Information Centre", which deals with urgent requests for assistance and analyses police information on behalf of local police districts and the relevant Directorate of Criminal Police.

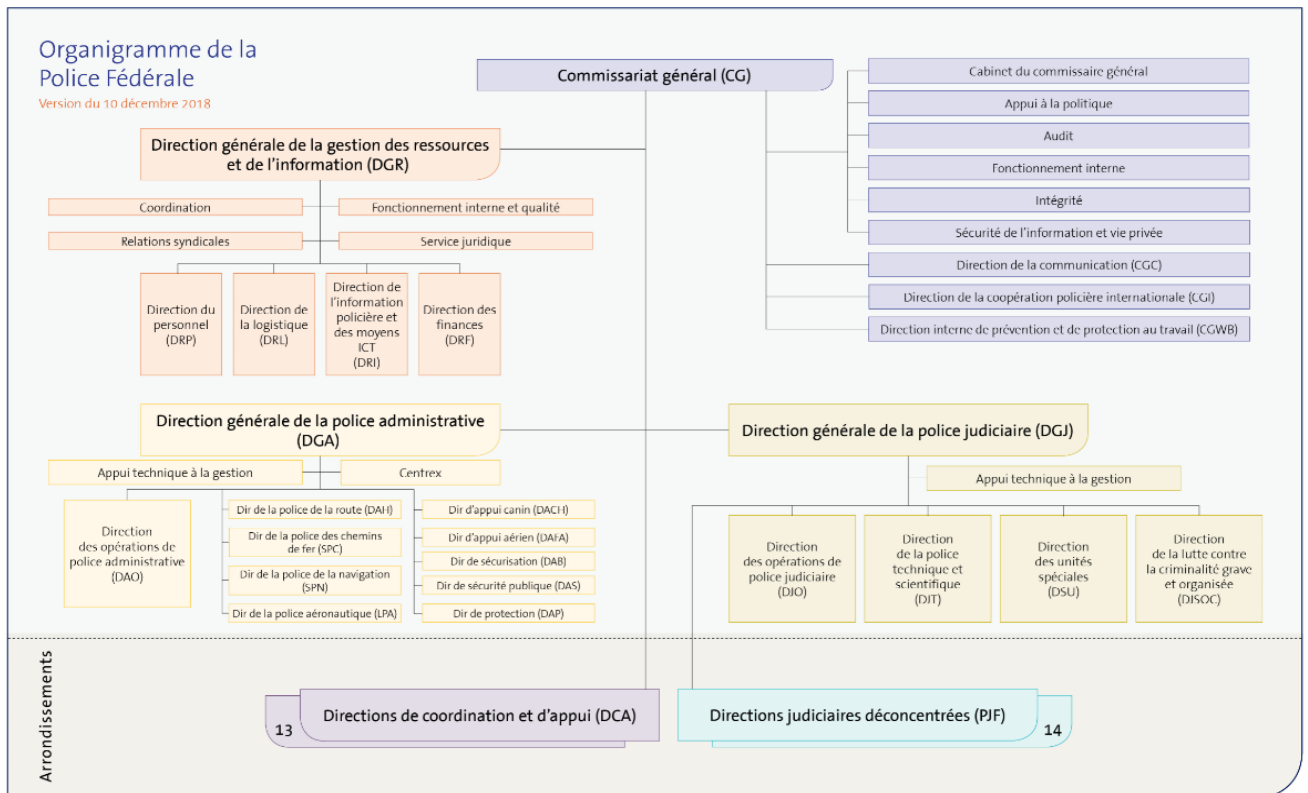
133. The Directorate General of Criminal Police (DGJ) comprises a central section and 14 decentralised criminal police directorates covering the whole country and responsible for combating organised and non-local crime. The Directorate General also includes the special intervention units of the Federal Police.

134. The Directorate General of Administrative Police (DGA) also comprises central services and decentralised directorates responsible for policing communication networks: road, air, navigation and rail. It has a public security directorate and one responsible for protection activities. It also provides canine and air support to the two tiers of police.

135. The Directorate General of Resources and Information (DGR) operates across all departments and deals with personnel, logistical, financial and IT matters. It manages the national police data bank, which can be consulted by any police department whose operational needs justify having access to the requested information.

**Belgian Federal Police staffing at 31/12/2018**

Directorate General	Ops/CAlog	Level	Men	Women	General total
<b>CG</b>	<b>Ops/CAlog</b>	A	60	119	179
	<b>Civilian</b>	B	111	154	265
		C	138	219	357
		D	92	54	146
	<b>ops</b>	Divisional commissioner (CDP)	57	6	63
	<b>Operational</b>	Commissioner (CP)	113	27	140
		Inspector (INP)	1003	377	1380
		Trainee inspector (INPP)	288	31	319
		Constable (AGP)	1	5	6
<b>Total CG</b>			<b>1863</b>	<b>992</b>	<b>2855</b>
<b>DGA</b>	<b>CAlog</b>	A	18	33	51
		B	38	38	76
		C	42	123	165
		D	14	17	31
	<b>ops</b>	BAP (psychological support)	42		42
		CDP	30	4	34
		CP	124	12	136
		INP	2235	421	2656
		INPP	461	37	498
		AGP	9	10	19
<b>Total DGA</b>			<b>3013</b>	<b>695</b>	<b>3708</b>
<b>DGJ</b>	<b>CAlog</b>	A	34	51	85
		B	62	92	154
		C	86	184	270
		D	16	47	63
	<b>ops</b>	CDP	73	6	79
		CP	667	67	734
		INP	726	255	981
		INPP	1468	279	1747
<b>Total DGJ</b>			<b>3132</b>	<b>981</b>	<b>4113</b>
<b>DGR</b>	<b>CAlog</b>	A	148	220	368
		B	129	156	285
		C	136	143	279
		D	116	44	160
	<b>ops</b>	CDP	21	4	25
		CP	64	10	74
		INP	125	29	154
		INPP	108	16	124
<b>Total DGR</b>			<b>847</b>	<b>622</b>	<b>1469</b>
<b>General total</b>			<b>8855</b>	<b>3290</b>	<b>12145</b>



136. Three different departments are concerned with preventing and investigating corruption cases in the Federal Police: the Central Anti-Corruption Office, the Integrity Department of the Office of the Commissioner General (CG/Integrity) and the Internal Operation Monitoring Service and Quality Department (DGR/TIWK).

137. The Central anti-corruption office (OCRC/CDBC)<sup>42</sup> carries out independent inquiries and provides specialist support for federal and local police investigations, particularly for offences of corruption, extortion, receipt or acceptance of an interest and misappropriation, in connection with public procurement, grants, permits and consent to third party transactions. It has four sections, two French-speaking and two Dutch-speaking. The office also has a “sports fraud” contact point. The OCRC/CDBC’s activities are overseen by a guardianship judge, who is a member of the Federal Prosecution Office. S/he submits a report each year on the work of the OCRC/CDBC to the Justice Minister, who then transmits it to parliament. The report is not published. The GET considers that publishing this report would contribute significantly to transparency and encourages the authorities to do so.

138. The composition, role and powers of the CG/Integrity department are described below in the “anti-corruption and integrity” section. The internal control and quality department is considered in the “internal oversight and control” section.

139. Additionally, under Section 102 of the Integrated Police Act (LPI/WGP), a royal decree from 23 June 2019 (entered into force on 12 August 2019) made the central service department of the Criminal Police Directorate (DGJ) responsible for carrying out special inquiries into certain specified areas, including serious forms of corruption, namely public corruption, unlawful receipt

<sup>42</sup> <https://www.police.be/5998/fr/a-propos/directions-centrales/office-central-pour-la-repression-de-la-corruption-ocrc-0>

or acceptance of an interest, extortion, misappropriation by a person holding public office and public procurement fraud.

140. Many of those whom the GET met, including representatives of the authorities, said that the Federal Police were in crisis. They lacked resources, were suffering an exodus of personnel towards the better resourced local police and had an ageing workforce. According to the unions, there is a shortfall of about 2,500 persons in a total workforce of 12,000 at federal level.

141. This lack of resources particularly affects the departments responsible for preventing and combating corruption, which also reflects the low priority given to this problem in recent years. Some of those spoken to said that it was not one of the government's main concerns. Moreover, following the Brussels bombings, significant resources have been transferred to the fight against terrorism. The CG/Integrity department, considered below, has just one member of staff. The official establishment of the OCRC/CDBC fell from 120 persons in the 2000s to 66 in 2018. In 2018, only 39 of the 66 posts were actually filled, a shortfall of 40%. Although 17 persons have been recruited in 2019, these are just sufficient to make up for those leaving the department. Certain members of the OCRC/CDBC also came under suspicion in 2015-2016, when they were conducting inquiries into a political-financial affair in Charleroi, in a case involving improperly completed expenses claims. They were cleared of suspicion,<sup>43</sup> but the case has had a lasting effect on the office, involving burnouts and departures to other departments. Despite this episode, the GET notes that the OCRC/CDBC appears to be genuinely independent of the political authorities.

142. This lack of resources has naturally had a negative impact on the under-staffed units concerned. The OCRC/CDBC has become purely reactive, conducting inquiries solely in response to complaints or press articles. The proactive side of the work – studying aspects of corruption, prevention and networking – is neglected, with the accompanying risk that certain offences will not be uncovered. In the light of the foregoing, the GET urges the Belgian authorities to take urgent steps to remedy the staffing shortages of the OCRC/CDBC and more generally, the Federal Police.

#### *Access to information*

143. The principle of right of access to administrative documents is established in Article 32 of the Belgian Constitution. The principle is transposed at federal level by the Act of 11 April 1994 on public access to administrative information.<sup>44</sup> This principle is also inscribed in point 65 of the Code of Conduct.

144. The processing of personal data by the competent authorities for the purposes of preventing and detecting criminal offences, conducting relevant inquiries and prosecutions or executing court decisions, including measures to counter threats to public security and prevent such threats, is covered by the data protection legislation,<sup>45</sup> particularly Sections 36 et seq. Under Section 42, the right of individual access is limited and must be exercised via the police information monitoring body.

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<sup>43</sup> [https://www.levif.be/actualite/Belgium/blanchis-les-enqueteurs-de-jumet-contre-attaquant/article-normal-106303.html?cookie\\_check=1566542104](https://www.levif.be/actualite/Belgium/blanchis-les-enqueteurs-de-jumet-contre-attaquant/article-normal-106303.html?cookie_check=1566542104)

<sup>44</sup> See footnote 21

<sup>45</sup> [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&table\\_name=loi&cn=2018073046](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2018073046)

### *Public confidence in the selected law enforcement agencies*

145. The security monitor (VMS)<sup>46</sup> is a large-scale survey of the population conducted at national and local level to assess the public's sense of insecurity and its perceptions of police functioning. The survey comprises questions on, firstly, local problems, feelings of insecurity, victimisation and complaints and, secondly, perceptions of how the police are carrying out their functions. The project started in 1997 at the request of the Interior Minister. The survey was conducted seven times in just over ten years (1997, 1998, 2000, 2002, 2004, 2006 and 2008-2009), then again in 2018. It is a telephone survey of a representative sample of the Belgian population. The results of the 2018 survey reveal a generally favourable view of the police, since 64% of respondents expressed satisfaction with their work. In particular, they were satisfied with police attitudes and behaviour (68%) but were less so with the information given on their activities (36%).

146. According to Transparency International's 2018 global corruption barometer, the perception of corruption in the Belgian police is slightly better than for the other institutions covered: only 31% of those questioned thought that corruption and abuse of power were widespread in that environment.

### *Trade unions and professional associations*

147. There are six recognised police trade unions, four of which are also classified as representative:<sup>47</sup>

- *Algemene Centrale van de Openbare Diensten (ACOD) – sector politie/Centrale générale des services publics (CGSP) – secteur police/general public sector trade union-police sector;*<sup>48</sup>
- *Algemeen Christelijk Vakverbond – Openbare Diensten (ACV-Openbare Diensten/Confédération syndicale des syndicats chrétiens – services publics (CSC – Services publics)/Confederation of Christian trade unions – public services;*<sup>49</sup>
- *Nationaal Syndicaat van het Politie- en Veiligheidspersoneel (NSPV)/Syndicat national du personnel de police et de sécurité (SNPS)/National union of police and security personnel;*<sup>50</sup>
- *Vrij Syndicaat voor het Openbaar Ambt (VSOA)/Syndicat libre de la fonction publique (SLFP)/Free trade union of the public sector;*<sup>51</sup>
- *Syndicaat van de Belgische Politie (Sypol.be)/Syndicat de la police Belgian (non représentatif)/Belgian police trade union (non-representative);*<sup>52</sup>
- *Nationale Unie der Openbare Diensten (NUOD)/Union nationale des services publics (UNSP)/National public services union.*

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<sup>46</sup> <http://www.moniteurdesecurite.policefederale.be/moniteurdesecurite/>

<sup>47</sup> "Recognition" simply entitles organisations to act on their members' behalf and give them assistance, give their views and receive documentation. "Representative" trade unions are also authorised to collect their members' union contributions in work premises during working hours, attend examinations sat by staff members, organise meetings in work premises, take part in negotiating and consultative committees, manage social provision and attend meetings of certain commissions and other bodies provided for in the regulations.

<sup>48</sup> <http://www.cgsp-admi.be/notre-secteur/federal-police-pompiers-comite-b-oip-federaux/>

<sup>49</sup> <https://csc-services-publics.csc-en-ligne.be/Qui-fait-quoi/Police/Police.html>

<sup>50</sup> [www.snps.be](http://www.snps.be)

<sup>51</sup> [https://vsoa-pol.be/fr\\_FR/](https://vsoa-pol.be/fr_FR/)

<sup>52</sup> [www.sypol.be/fr](http://www.sypol.be/fr)



148. The trade unions contribute to integrity policy by offering opinions and advice in the various bodies that draw up and agree the relevant policy directives and by reporting integrity problems when they arise.

149. The representative unions are members of the Police Ethics Committee (see below). The unions must be consulted in the police negotiating committee when new directives are being drawn up on questions relating to the police statute and/or integrity. Finally, they are also consulted in the relevant consultative committee on the drafting and application of internal regulations of the Federal Police and/or one of its departments. The unions can also use these bodies to discuss any problems relating to integrity.

### **Anti-corruption and integrity policy: regulatory and institutional framework**

#### *Legislation and regulatory framework*

150. Police regulations include:

- The Code of Criminal Investigation of 17 November 1808;
- The Police Act of 5 August 1992;
- The Act of 7 December 1998 establishing an integrated police force, structured at two levels;
- The Act of 26 April 2002 on the key aspects of the status of police personnel and various other provisions relating to the police force;
- The Royal Decree of 30 March 2001 on the legal status of police personnel;
- The Royal Decree of 10 May 2006 establishing the Code of Conduct for police services
- The Royal Decree of 14 November 2006 on the organisation and responsibilities of the Federal Police.

151. In addition, all office holders of the federal police (*“mandataires”*) issue a mission statement, setting out his or her strategic and cross-sectoral objectives, and values.

#### *Institutions*

152. The CG/Integrity department provides co-ordination, expertise and advice on integrity matters. It is directly answerable to the Commissioner General and currently has just one member of staff out of a theoretical establishment of four. It is charged with drawing up the integrity policy laid down by the Management Committee and/or the Commissioner General and for overseeing and monitoring the policy’s implementation. It also co-ordinates, monitors and assesses the Federal Police multi-annual integrity action plan. It plays an active part in determining objectives and strategic priorities regarding integrity. It advises and provides assistance in this area at the request of senior officials and department heads of the major entities. Finally, it is supposed to act as the Single Point of Contact (SPOC) for all issues regarding police conduct and ethics, if not all complaints received by the federal police. All complaints addressed to the police are currently dealt with by the TIWK Department.

153. The CG/Integrity department is clearly intended to play a central part in the Federal Police integrity policy, but the lack of human resources currently prevents it from carrying out all its allotted responsibilities. It is impossible for one person to perform all the tasks detailed above. The General Inspectorate of Police (AIG) also considers that the department needs to be strengthened. An increase in staffing to the theoretical establishment of four is desirable and would at least make it possible to secure a balanced representation of the different language

communities in the department. By serving as the single point of contact within the federal police, it would also enable the department to co-ordinate with the General Inspectorate of Police and the Standing Committee for Monitoring Police Departments (P Committee) on breaches of integrity, which does not seem to be the case at present. Therefore, **GRECO recommends that the actual staffing level of the Commissioner General/Integrity department be increased.**

#### *Anti-corruption and integrity policy*

154. Integrity is one of the values of the Federal Police, as specified in the Commissioner General's mission statement 2012-2016. The Commissioner General and the Directors General have drawn up an Integrity Policy Declaration 2012-2016, which was approved by the Management Board on 31 March 2014. The declaration sets out the priorities of the Federal Police integrity policy, what this means in practice and how it is to be implemented and monitored. The policy is supplemented by an action plan, together with a series of performance indicators. Provision is made for an intermediate and a final assessment. The policy includes both monitoring and incentive components, with priority given to the latter. The action plan provides for an inventory of existing directives, screened from an integrity and diversity standpoint, an explanatory supplement to the Code of Conduct, a review of the criteria for authorising outside activities, training sessions and the identification of at-risk posts, procedures and conduct. A new integrity policy is being prepared by the CG/Integrity department for presentation in late 2019.

155. The GET notes that the Federal Police have made significant and productive efforts to assess levels of integrity and corruption in the force. It welcomes this progress, which is reflected in the numerous detailed measures appearing in the 2012-2016 integrity policy declaration. It appears that in practice not all of these measures have been implemented, and that the intermediate and final assessments specified in the declaration have not been carried out. This is regrettable, given the volume and standard of preparatory work undertaken. It must also be noted that no new integrity policy has so far seen the light of day. This is the responsibility of the CG/Integrity department, whose understaffing the GET has criticised above. It refers to its comments and recommendation in paragraph 152.

#### *Corruption risk management in at-risk departments*

156. In late March 2010, the CG/Integrity department started to prepare an integrity risk inventory in the different directorates general of the Federal Police. The aim was to identify at-risk areas and the threat they posed to integrity, and what steps had been or could be taken to deal with them. The risk inventory was based on a broad-ranging definition of the concept and included potential violations that might appear quite minimal.

157. Based on the inventory, a table was drawn up summarising the risks faced by the Federal Police, together with factsheets for the officials concerned on specific topics, namely financial management, quality of service, work-time organisation, autonomy, equipment use, professional duties, internal relations and managing, consulting and using documents. These factsheets were designed as vehicles for providing information and sharing experience. Measures were proposed for each area of activity.

158. A survey of integrity at work in the Federal Police Directorates was conducted in 2015 by the Institute of Criminology of the Catholic University of Louvain. Each Directorate General and the trade unions have been informed of the results.

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

159. Undercover operations and the use of informers are referred to as special investigation methods and are the subject of royal decrees, confidential circulars of the association of general prosecutors and police directives.

160. These methods are subject to oversight at police, judicial and political levels. Within the police, there is hierarchical scrutiny in each unit employing these investigation methods and they are also monitored by other independent police units. Within the judicial system, such cases are reviewed at district level by the relevant special investigation methods judge, and also by the indictments chamber and the Federal Prosecutor's office. Chief prosecutors also have a right of scrutiny in certain cases. Finally, political control takes the form of an annual report to parliament showing the statistics on such measures carried out.

161. A national data bank enables the National Informer Administrator (*"gestionnaire national des indicateurs"*) to oversee and co-ordinate the use of informers. The sums set aside for or used on undercover operations or for informers have to be registered with the Federal Police and the Federal Prosecutor's office, which also require supporting documentation and monitor the process.

162. There is a rigorous selection procedure for police officers involved in undercover operations and those concerned must successfully complete appropriate training in order to operate under cover or co-ordinate or supervise such activities. The maximum period for which they can take part in such a team is six years. Co-ordinators and supervisors exercise a management role and there is also psychological monitoring for those concerned.

163. The same applies to the use of informers. A training period, ranging from four days to three weeks in the case of officers handling high-level informers, must be successfully completed. A royal decree also provides for a compulsory annual assessment of such operations.

164. There must be a written report on each contact forming part of a special investigation, and the contacts are also the subject of detailed briefings and debriefings. Two contact officers must be present at every meeting with an informer.

#### *Ethical principles and codes of conduct*

165. A Code of Conduct<sup>53</sup> was approved by royal decree of 10 May 2006. It reflects a consensus between the police forces, the Council of State and the trade unions. It also takes account of international and national legislation, existing police codes of conduct in other countries, the results of GRECO's first round evaluation of Belgium and the European Code of Police Ethics. This is given to every police officer, to be read and signed, at their admission interview.

166. Although the Code of Conduct is not intended to be used as a mere disciplinary tool, it is clear for the authorities that conduct that is manifestly contrary to some of its prescriptions may lead to disciplinary sanctions.

167. The GET notes that the Code of Conduct has not been updated since its adoption in 2006, possibly because the revision procedure, which requires the King's signature, does not facilitate regular updating. At all events, the Code does need revision, particularly as the rules on outside

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<sup>53</sup> <https://www.Police.be/5998/fr/a-propos/Police-integree/le-code-de-deontologie-des-services-de-Police>

activities have recently been modified by legislation. The Code is therefore no longer consistent with the law on this point. The GET also believes that certain rules should be clarified and sharpened as part of such an updating. Examples include the rules on receipt of symbolic gifts and on abstention in the event of personal involvement in a case. **GRECO recommends that the Code of Conduct be brought up to date and that steps be taken to ensure that there are regular updates in the future.**

168. The Code of Conduct also provides for a Police Ethics Commission tasked with advising on the Code's application, interpretation and evaluation, and recommending what it considers to be appropriate changes. It is composed of two representatives of the Federal Police and two of the local police plus one representative from each of the representative staff organisations, and is chaired by an Interior Ministry representative. The Commission can be assisted by experts. By decision of the Minister of the Interior dated 12 August 2008, the General Inspectorate of Police (AIG) was appointed as permanent expert, without a right to vote. The GET has been informed that the Police Ethics Commission exists but meets only rarely and does not appear to make a very active contribution to the integrity policy<sup>54</sup>. It considers that the commission should be more proactive, as a complement to the integrity/CG department, especially as it appears to have responsibility for updating the Code of Conduct.

#### *Advice, training and awareness-raising*

169. Training for all the members of the Integrated Federal Police operating at national level is provided by the national police academy, and for those at provincial level by the approved police colleges.

170. The basic training programme of police officers at basic, intermediate and senior levels is obligatory and includes the following components:

- police ethics: identifying untoward conduct and reacting to it according to level: this training lasts from 8 to 30 hours according to grade;
- specific areas of law (in particular, the LPI/WGP, the Disciplinary Code and the Criminal Code): identifying, based on concrete examples, the precise nature of offences in which staff members may be implicated as suspects and explaining the possible likely consequences;
- societal context: recognising and explaining behaviour that deviates from the norm in various contexts.

171. As part of the skills training for criminal police officers, bribing persons performing public duties and abuse of authority are dealt with in the module on offences against public order, committed by persons performing public duties. This lasts three hours and is given by a member of the P Committee (Police Monitoring Committee, see below). The training is compulsory for persons who will have an enforcement function in a central or local police department. It is provided by the national police academy. There were 155 participants in 2016, 152 in 2017 and 304 in 2018. The skills training budget is € 21 551.83 gross per complete training session.

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<sup>54</sup> On 24 April 2019, the General Inspectorate of Police offered the Minister of the Interior and Security to assume the presidency of this commission in particular with regard to its general mission relating to the definition, respect and updating of police ethics. This proposal aims to ensure a minimum of two annual meetings and, as a result, more regular opinions. The Minister is currently examining the possibility of the resumption of the presidency of the Police Ethics Commission by the AIG.

172. Finally, various forms of continuing training are also concerned with ethical and integrity aspects of combating corruption. Some 300 police officers take part each year in such training, which is provided by approved police colleges and/or the national police academy. Certain sessions are specifically concerned with public office holders and senior officials.

173. Federal Police standards and values are also considered at the planning interview and then assessed at the evaluation interview of the staff appraisal process.

174. The GET considers that ethical and good conduct training, particularly initial training, is satisfactory. Integrity appears to be one of the four priority components of the training, which is a positive step. The GET has also received information on certain especially interesting courses, in particular ones on ethical dilemmas and ethnic bias, which should be encouraged.

## **Recruitment and career advancement**

### *Employment regimes*

175. The divisional commissioners (Commissioner General, Directors General, Co-ordination Directors and Criminal Police Directors) are appointed for a five-year term of office. No one may be appointed to a federal police mandate unless they have been declared fit by a selection committee. These designations are renewed (indefinitely) on the basis of an opinion issued by an evaluation committee. The Commissioner General and the Directors General are appointed by the King on the proposal of the Ministers of Justice and the Interior and after a reasoned opinion from the Federal Police Council (on which the Commissioner General does not sit for the renewal of his mandate). For the appointment of the Director General of the Directorate General of the Judicial Police, the reasoned opinion of the College of Prosecutors General is also required. The Director of Administrative Coordination is appointed by the King, on the proposal of the Minister of the Interior and after reasoned opinion of the Minister of Justice and the Governor. The Judicial Director is appointed by the King, on the proposal of the Minister of Justice and after reasoned opinion of the Minister of the Interior and the Attorney General before the territorially competent Court of Appeal. A federal police mandate may be terminated early if it appears, on the basis of an evaluation by the evaluation committee, that the latter obtains an "insufficient" rating.

176. All the executive members of the operational sections of the police are appointed as established public officials, full time and on permanent contracts. Basic grade police officers may be established or contractual employees but in the Federal Police the principle is for appointments to be established. They are appointed, according to grade, by the Crown, the Interior Minister or the Director General of Resources And Information (or the authority nominated by him or her).

177. The GET notes that there is a weakness in the arrangements governing senior police grades in that caretaker governments – as has been the case since December 2018 – do not make such appointments. This means that a significant number of these senior staff are currently employed on a temporary basis, with their appointments being renewed every six months. Moreover, in the case of internal promotions, their previous posts must also be filled on a temporary basis. This leads to a certain instability, which the system and the staff seem to cope with but which is still undesirable. At the time of the on-site visit, two of the three directors general had been appointed *ad interim*. This lack of stability makes it difficult to conduct a long-term policy. The General Inspectorate of Police (AIG) has itself been directed for eight years on an *ad interim* basis, which has weakened this body, according to the authorities with whom the GET spoke. Therefore,

**GRECO recommends that an examination be carried out of ways of increasing the stability of the Federal Police senior management, with a view to taking relevant measures to that effect.**

*Appointment and promotion procedures*

178. The initial selection procedure is laid down in the Royal Decree of 30 March 2001 on the legal status of police personnel. It entails:

1. a test to establish whether candidates have the necessary cognitive skills;
2. a personality test using selection techniques adapted to the post;
3. a physical and medical examination to assess suitability for the post;
4. an interview with the selection committee concerned,<sup>55</sup> which makes a final assessment and decides whether or not a candidate is suitable.

179. The tests are, in principle, organised in such a way that it is impossible to sit one without having first reached the minimum pass mark for the previous test. Some of the physical tests are adapted to ensure that women and men enjoy equal opportunities. Candidates who have been declared suitable for employment and meet the admission conditions (in particular, conduct beyond reproach, see below), are accepted for basic training.

180. Promotion to the next level (intermediate or officer grade) is based on a competition, after which candidates are classified by order of results obtained on language-based lists. The selection committee then divides candidates into three groups: very suitable, suitable and unsuitable. If the number of candidates laid down by the Minister for the intermediate or officers' grades can be met by the very suitable group, the committee terminates the competition. It draws up an alphabetical list of successful members of staff who are then classified in order of merit. This list is not published. Unsuccessful candidates can appeal to the Council of State for the proceedings to be suspended or set aside.

181. Checks on the integrity of external candidates are laid down in the Act of 26 April 2002 on preconditions for membership of the police force and various other provisions relating to police departments, and are based on the following information:

- a) a certified copy of the full criminal record dated less than three months before the date of the application;
- b) a domestic environment and background inquiry, including interview with the candidate in either his or her home or any other place of residence, carried out by the local police;
- c) all available information supplied by the security service and by the co-ordinating body for analysing threats (OCAM/OCAD);
- d) all available information on municipal administrative penalties for so-called "mixed" offences;
- e) judicial information supplied by the police, subject to authorisation of the relevant judicial authorities;
- f) other valid data and information to which the police have access.

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<sup>55</sup> Deliberation committees comprise: 1) the federal police director of the personnel department or a designated member of his or her staff, who chairs the committee; 2) a local police representative appointed by the standing commission of the local police; 3) a staff member of the federal police, appointed by the director general of resource and information management. Committees decide by simple majority, with all the members present.

182. It appears from information received by the GET that serious and thorough integrity checks are carried out on those seeking admission to the police. However, no such checks are carried out on serving police officers in the course of their careers. The GET considers this to be a serious shortcoming, since risk factors that are not present at the start of police officers' careers may subsequently arise in their everyday work or following changes in their personal circumstances. Such risks must be taken into account, particularly in the case of recruitment to certain sensitive posts, such as those in the central anti-corruption office (OCRC/CDBC) or the General Inspectorate of Police (AIG). Therefore, **GRECO recommends that checks on candidates' integrity be carried out in the context of changes of post and promotion – including promotion to senior grades – and at regular intervals in the course of officers' careers.** Such scrutiny would entail access to relevant data bases (in this regard, see paragraph 215 below).

#### *Performance appraisal*

183. Appraisals take place every two years, focusing on:

- ensuring that officers' skills match with the duties they perform;
- their attitude in relation to the organisation's values;
- their achievement of objectives.

184. The aim is, firstly, to develop the competences of those concerned. Appraisals culminate in an overall description of the individual rather than a detailed analysis based on each of the criteria employed.

185. Senior officers (Commissioner General, Directors General, Co-ordination Directors and Criminal Police Directors) are appraised at the end of their five-year term of office by an appraisal committee. If the result of the appraisal is "inadequate" they must leave their post. If the result is "satisfactory" applications are invited for the post but the previous incumbent may also apply. If the result is "good" the term of office is extended for a further five years.

#### *Rotation and mobility*

186. Rotation is voluntary and is based on the mobility system, as part of which all posts, other than senior officer grades, are published. There are five mobility cycles each year.

187. Appointments to a limited number of posts in the special intervention units, specifically ones in the undercover section, are for a maximum period, following which those concerned cannot apply for such a post for at least five years.

#### *Termination of service and dismissal*

188. Termination of service results in particular from voluntary resignation or retirement<sup>56</sup>. The police statute also provides among others for the disciplinary penalties of dismissal with loss of state pension rights and dismissal without loss of state pension rights.

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<sup>56</sup> The full list of grounds for termination of service is contained in Articles 81 to 84 of the Law of 26 April 2002 on the essential elements of the status of police personnel and laying down various other provisions relating to police services (Exodus Law).

According to grade, the authorities deciding on disciplinary sanctions for compulsory resignation and dismissal are:

- for non-officer grades and according to the specific grade of the individual concerned, the Commissioner General or the Director General concerned;
- for officer grades: the Minister of the Interior;
- for Directors-General and the Commissioner General: the Minister of the Interior and the Minister of Justice, acting jointly.

### *Salaries and other benefits*

189. Salaries are based on a pay scale related to grade, in the case of operational staff, or level of duties performed, for staff in the administrative and logistical category, who are therefore, in principle, not active on the ground.<sup>57</sup>

190. At operational level, the grades and related steps are as follows:

- Police auxiliaries: salary scales HAU1 to HAU3. The gross annual non-indexed salary of a police officer in this grade is €14 233.88.
- Security police assistants: salary scales BASP1 to BASP4. The gross annual non-indexed salary of a security police assistant with no seniority is €14 558.01.
- Basic grade police officers: salary scales B1 to B5. Probationary police officers recruited externally, who are therefore at the start of their careers, are placed on the aforementioned HAU1 scale from the date of their appointment. Once the appointment is confirmed, full basic grade officers are on scale B1, which starts with a non-indexed annual salary of €15 518.14.
- Intermediate grade officers: salary scales M1.1 to M4.1. However, these staff are recruited solely from among basic grade officers as part of an internal promotion procedure. They are not, therefore, at the start of their careers and continue on the salary scale that applied immediately before their designation as probationary intermediate grade officers. Once the appointment is confirmed, officers recruited from basic grade staff are placed on salary scale M1.1, with a gross annual non-indexed starting salary of €17 352.55.
- Specialist intermediate grade officers: salary scales M1.2 to M4.2. The gross annual non-indexed salary of a specialist intermediate grade officer with no seniority is €17 352.55.
- Senior officer grade (*commissaires/commissaris*): salary scales O1 to O4. Probationary senior officers entering via the external recruitment procedure, who are therefore at the start of their careers, are placed on salary scale O1, which starts on a gross, non-indexed annual salary of €21 090.95. Once the appointment is confirmed, they move on to scale O2, which starts on a gross, non-indexed annual salary of €23 797.78.

191. There are higher salary scales than O4, which can be attained only with experience. These are scales O5 (minimum € 33961.42), O6 (minimum €35 324.83), O7 (€37 431.93) and O8 (€41 398.22).

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<sup>57</sup> All the pay scales appear on the internet site [www.ssgpi.be](http://www.ssgpi.be), via the options Employeur (or Membre du personnel) > Votre traitement > Echelles de traitement.



192. Salaries vary according to the duties performed, seniority on the salary scale and length of service. To move up the salary scale after the number of years required – normally six – those concerned must be assessed and, sometimes, undergo a certain number of hours of in-service training. Assessments resulting in an “inadequate” finding prevent individuals’ advancement to the next step on the scale.

193. The Royal Decree of 5 October 2018 introduced the following scales for the most senior managerial posts:

- Commissioner General: salary scale O8, with the maximum annual basis of the scale;
- Director General: salary scale O8;
- Dirco/DirJud: salary scale O7 (or O8 if already at the top of scale O7);
- Director of a central department: salary scale O7 (or O8 if already at the top of scale O7);
- Director General of Internal Administrative and Technical Services: salary scale O8;
- Director General of Judicial Administrative and Technical Services: salary scale O8;
- Head of the police inspectorate A/G: €73 185.81 (non-indexed annual base);
- Deputy Head of the police inspectorate: €65 508.80 (non-indexed annual base);
- Director General of the P Committee’s inquiry section: salary scale O8;
- Deputy Director General of the P Committee’s inquiry section: salary scale O7.

194. Operational staff meeting the relevant conditions may be eligible for various benefits and allowances<sup>58</sup> such as household, residence, night time and weekend working and travelling allowances. The police statute was revised on 1 July 2019 and several allowances and benefits are currently being abolished.

195. These allowances and benefits are monitored by the social secretariat of the Federal Police.

### **Conflicts of interest**

196. The police are subject to legal rules on incompatibilities and outside activities (see below) to prevent conflicts of interest. Section 127 of the Act of 7 December 1998 establishing an integrated two-tier police force also contains a general obligation and presumption of impartiality, as well as prohibiting arbitrary conduct.

197. In addition, the Code of Conduct requires police personnel “to refrain from any action or attitude likely to undermine the presumption of impartiality” (point 22) and states that “those who are personally connected with a case, in such a way that their impartiality could be open to question, should refrain from taking part themselves in the handling of that case. They should call on other colleagues, if necessary via their superior officer, to ensure that the necessary professional duties are performed” (point 23).

198. The GET notes that points 22 and 23 of the Code of Conduct are written in extremely general terms and include concepts that are very much open to interpretation, such as those of personal

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<sup>58</sup> The list of allowances and benefits appears in [www.ssgpi.be](http://www.ssgpi.be), via the options Employeur (or Membre du personnel) > Votre traitement > Module de calcul (under the heading “Les montants indexes”). All the information on each of these allowances appears in a handbook, which is regularly updated. This can also be consulted on the same site, via the options Employeur (heading Membre du personnel) > Manuels > Manuel d’administration financière du personnel.

involvement or questionable impartiality. Even though the Code's commentary includes some examples, the GET believes that some of these concepts should be further developed and clarified, particularly by adding specific grounds for standing down in particular cases, such as, for example, family and/or marital links. This could form part of the aforementioned updating of the Code of Conduct (see paragraph 166). It would also be helpful to introduce some form of monitoring of declarations of interest, particularly in connection with checks on police officers' integrity, in the course of their careers (see paragraph 181).

### **Prohibition or restriction of certain activities**

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

199. Article 134 of the Integrated Police Force Act of 7 December 1998 makes membership of police operational divisions or units incompatible with a number of alternative occupations or professions, even if unpaid, in private non-profit undertakings or voluntary associations, or, where relevant, working with individuals. These include:

- being an operational member of a rescue or ambulance service;
- managing or teaching in a licensed driving school, and giving practical driving lessons on the public highway;
- acting as a rural policeman (garde champêtre particulier/bijzondere veldwachters).

200. Until 31 August 2018, apart from certain specific exceptions, which were subject to authorisation, the exercise of outside activities was prohibited. The authorisation procedure for the exceptions was very restrictive. This system has now been completely revised, the principle being that outside activities are now authorised, unless otherwise stated.

201. Under Article 135 of the Integrated Police Force Act, operational members of the force must advise the Commissioner General in advance of any incompatible occupations they intend to take up. Within 45 days of receiving such notifications, and after consulting either the relevant Director General or head of geographical division to whom the applicant is responsible, the Commissioner, who in practice delegates this responsibility to the personnel director, may decide, giving his or her reasons, to:

- refuse to allow the exercise of the occupation in question, with reference to directives issued by the Minister of the Interior;
- make exercise of that occupation subject to certain conditions relating to the interests of the service and the dignity of the relevant member of personnel.

202. When the 45-day period has expired and if the request has not been refused, exercise of the outside activity is authorised. According to information supplied to the GET, since the changes to the legislation only three requests to undertake outside activities out of 250 submitted have been refused, and these involved legally incompatible activities.

203. The GET was told that the move from a system in which outside activities were only permitted on an exceptional basis to one of almost blanket authorisation resulted from the integration into the police force of state security officers, who had more liberal outside activity rules. The measure had been requested by one trade union and was unanimously criticised during the on-site visit, with the other trade unions concurring.

204. The GET fully supports these criticisms, since the new authorisation arrangements pose many questions from the standpoint of preventing conflicts of interest, managing working time and the general management and oversight of activities. In the absence of criteria to guide decisions on whether or not to approve outside activities, all requests are currently granted. The GET received confirmation that a risk of conflict of interest was not a sufficient ground for prohibiting an outside activity. It also learnt of a row between police officers on a question of extending hours of service, which was likely to interfere with the exercise of an outside activity. The GET considers that, in principle, police officers' time should be devoted exclusively to their professional duties, without excluding part-time working, though exceptions should remain possible. The recently-established reverse principle could damage the credibility of the institution. Therefore, **GRECO recommends that the right to exercise outside activities be strictly governed by objective and transparent criteria and that this be accompanied by effective oversight arrangements.** The Code of Conduct should also be updated to take account of these criteria, since the previous Code, dating from 2006, reflects the previous prohibition rules. A recommendation to that effect appears in paragraph 166.

205. There are no specific regulations on holding financial interests.

### *Gifts*

206. Under point 26 of the Code of Conduct "staff may not request, demand or receive, directly or through a third party, even outside of their normal duties but nevertheless on account of them, gifts, gratuities or any other donations. This does not include symbolic gifts of small value exchanged between staff in the normal course of their duties". Article 130.3 of the LPI does not, however, provide for any exception to the prohibition on accepting donations, gratifications and advantages.

207. A memorandum on official business abroad refers to point 26 of the Code and states that symbolic gifts may be given or offered. The memorandum also states that the Code of Conduct does not define the notion of symbolic gift, nor give any reference value. For examples of such gifts, it refers to Council of Europe Recommendation No. R(2000)10 on codes of conduct for public officials. Certain gifts of higher value may also be offered or received for cultural or diplomatic reasons or ones relating to protocol. If such gifts cannot be refused diplomatically, they must be declared in writing and are recorded and stored in the Directorate General concerned, the social department or the police history centre. Finally, if there is doubt about how to respond, the opinion of the CG/Integrity department must be sought.

208. The GET notes that the memorandum on official business abroad goes into greater detail about gifts than the Code of Conduct, even though its scope of application is narrower. The ideas it contains could usefully be included in a future Code of Conduct, with the comments on it updated. In this connection, the GET refers to its recommendation in paragraph 166. The memorandum also authorises the acceptance and declaration in certain circumstances of gifts of higher value than purely symbolic ones, which is not mentioned in the Code of Conduct. The LPI does not, however, provide for any exception to the prohibition on accepting gifts. The texts should be harmonised on this point. Finally, certain aspects of the applicable rules need to be clarified, such as who should decide whether a gift is symbolic. The addition of quantitative criteria, even if purely indicative, and of the procedure for declaring and valuing gifts would also be welcome.

### *Misuse of public resources*

209. Point 27 of the Code of Conduct states that “without prejudice to any specific directive on the subject, staff members shall not make use, for private purposes, of resources such as vehicles, equipment or software placed at their disposal by the organisation”. Point 42 of the Code provides that: "Staff members shall take good care of the material, equipment, vehicles, premises and software made available to them. In this spirit, they prevent damage and avoid unnecessary costs and waste. They shall take the necessary measures to prevent the theft, misuse or damage of equipment, material, equipment, vehicles and service weapons and any intrusion into police premises and software”.

### *Contacts with third parties, confidential information*

210. There are no specific provisions on contacts with third parties outside of official proceedings.

211. Under point 34 of the Code of Conduct, police officers are bound by professional confidentiality, the confidentiality of inquiries and the duty of discretion (point 34 to 37 and point 54 of the Code of Conduct, art. 131 of the LPI, art. 48 of the Law of 26 April 2002 on the essential elements of the status of police personnel, art. 28quinquies, §1 and 57, §1 of the Code of Criminal Investigation and art. 458 of the Criminal Code).

### *Post-employment restrictions*

212. Section 3.1.5 of the Act of 19 July 1991 on the profession of private detective forbids retired police officers from practising as private detectives until five years have elapsed since leaving the force. Former members of the force must also wait three years before they can work in private security, pursuant to Section 61.111 of the law of 2 October 2017 governing private and individual security undertakings. Professional confidentiality continues to apply after the termination of functions (point 34 of the Code of Conduct).

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

213. Federal Police employees are not required to declare their assets, income, liabilities and interests, other than to the tax authorities.

214. The GET notes that financial disclosure requirements can play a part in preventing risks of corruption in the police, for instance for senior posts or individuals involved in public procurement, where there may be a greater risk of corruption. It would appear appropriate at least to introduce such declarations in respect of positions that are vulnerable to conflicts of interest and corruption. Therefore, **GRECO recommends that the authorities assess the need to introduce an obligation to declare assets/interests in respect of top management and/or certain at-risk positions in the police, with a view to introducing such rules.**

### **Oversight and enforcement**

#### *Internal oversight and control*

215. Apart from hierarchical management oversight, internal supervision is the responsibility of the Operation Monitoring Service and Quality Department (DGR/TIWK) of the Directorate General of Resources and Information. The department was established in 2011 and suffers from a

substantial staff shortage, with only 15 posts filled out of a theoretical establishment of 26. Only three of its members are police officers, with the remainder composed of administrative staff. It deals with disciplinary cases in the integrated police force. It can consider issues on its own initiative or receive referrals from the external oversight bodies: the General Inspectorate of Police (AIG) and the Police Monitoring Committee (P Committee). It can conduct inquiries or spot checks but the GET has been informed that it does not do so in practice for lack of resources. The department appears to confine itself to receiving complaints, and apparently cannot even deal with all of these. Nor can it provide data on its activities, even though it was established in 2011. Many of those with whom the GET spoke thought that the department was not meeting its internal control responsibilities, which could pose a threat to the integrity of the Federal Police. This also meant that there was no authority to conduct judicial inquiries into the police at federal level. Such powers were delegated to local police or to the external oversight bodies. The GET wishes to emphasise that a proactive and smoothly functioning internal control department can make a key contribution to preventing and punishing corruption in the Federal Police. **GRECO recommends ensuring that the internal control department is given the resources to actively combat corruption and to offer a meaningful statistical oversight of disciplinary cases in the Federal Police.**

216. Another major problem is that currently the integrated police have no information on criminal investigations into or convictions of their staff. It is therefore possible for prosecutors and judges to be unaware that someone appearing before them is a police officer, if the individual concerned has not disclosed the fact and it does not appear in the case documents. This in turn prevents the courts from advising the police that one of their officers has appeared before or been convicted in a criminal court, and the police cannot then take this into account in their disciplinary proceedings or when deciding on transfers or promotions to certain posts. **GRECO recommends that members of the police be obliged to reveal that status when they are the subject of a criminal investigation or conviction, or that they inform the competent internal service of the integrated police of an ongoing criminal investigation or conviction.**

217. Any action or form of behaviour, outside of police duties, that is in breach of professional obligations or could adversely affect the reputation of the force is a disciplinary offence to which sanctions might apply.

218. A distinction must be made between ordinary disciplinary authorities and higher disciplinary authorities. The former are competent to adopt light disciplinary sanctions, while the latter may impose both light and heavy sanctions.

Ordinary disciplinary authorities		Higher disciplinary authorities	
<i>Federal police</i>			
Executives other than officers Members of personnel (MP) < Grade A	<b>Head of Department</b>	Executives other than officers MP < Grade A	<b>Director General</b>
Grade A Officers MP	<b>Director General</b>	Grade A Officers MP	<b>Minister of the Interior</b>
Directors General Commissioner General	<b>Ministers of the Interior and of Justice acting jointly</b>	Directors General Commissioner General	<b>Ministers of the Interior and of Justice acting jointly</b>
<i>General Inspectorate of Police</i>			
Lower Manager Middle Manager MP < Grade A	<b>Inspector General</b>	All members of personnel	<b>Ministers of the Interior and of Justice acting jointly</b>
Inspector General Officers Grade A MP	<b>Ministers of the Interior and of Justice acting jointly</b>		

219. The relevant minor penalties are:

- warning;
- reprimand;

220. The more severe penalties are:

- reduction of salary;
- disciplinary suspension up to three months;
- demotion to a lower salary scale;
- compulsory retirement;
- dismissal.

221. The staff member concerned or their representative may submit a statement of defence. In this statement, s/he may request an oral hearing and the hearing of witnesses. S/he can also file documents. In some cases, the opinion of certain authorities - King's Prosecutor, Federal Prosecutor, Minister of Justice - must be sought by the higher disciplinary authority before imposing a serious sanction. On the basis of the complete file, the disciplinary authority issues its decision: no further action, minor disciplinary sanction or serious disciplinary sanction.

222. A request for reconsideration may be made to the so-called Disciplinary Board for serious sanctions. The Disciplinary Board is a permanent body at national level with a purely advisory role. It has one or more French-speaking chambers, one or more Dutch-speaking chambers and one German-speaking chamber, depending on the volume of business. Each chamber is composed of: a president, a magistrate appointed by the King for five years; an assessor of the same rank as the comparator (operational or CAlog), appointed for two years jointly by the Minister of the Interior and the Minister of Justice; an assessor appointed for two years by the Minister of the Interior and who is neither a member of a police service nor a member of a federal ministerial cabinet.

223. The staff member concerned, the higher disciplinary authority that proposed the sanction and the Inspector General are heard by the Disciplinary Board, which then issues an opinion. The disciplinary authority is not bound by this opinion, but if it does not follow it, it must indicate the reasons to the person concerned, who may submit a final statement. After receipt of this

document, if applicable, the higher disciplinary authority shall issue its final decision. Appeals against all the penalties, minor or serious, can be made to the Council of State.

#### *External oversight and control*

224. Two bodies, *inter alia*, carry out external oversight of the Federal Police (without prejudice to the control of the judicial authorities): the General Inspectorate of the Federal and Local Police and the Standing Committee for Monitoring Police Departments (P Committee).

#### General inspectorate of the Federal and Local Police (AIG)

225. The AIG is an autonomous ministerial department answerable directly to the Minister of Security and Interior and the Minister of Justice. It has separate premises from those of the police and its own budget and IT system. It is directed by an inspector general, with a deputy and a staff of 63 out of a theoretical establishment of 95. The AIG conducts judicial inquiries into cases concerning police conduct, which constitute 90% of its activity, carries out inspections, deals with administrative complaints and is developing audit and mediation activities to support police departments.

226. The GET notes that its staffing level fell by 20% between 2014 and 2017 and that a third of its theoretical establishment remains unfilled. At the same time, its duties have expanded without any equivalent increase in its resources. In line with its general comments on the shortage of resources in the Federal Police, the GET encourages the authorities to ensure that the AIG has sufficient financing, staff and technical support to carry out its responsibilities.

227. The inspector general and deputy inspectors general are appointed by the Crown for a renewable five-year term of office, on the joint proposal of the Justice and Interior Ministers. The other members of the inspectorate are appointed, according to their posts, by either the Crown or the Minister of the Interior. Candidates for the AIG must have at least ten years' service in the integrated police force and be of irreproachable conduct.

228. Members of the AIG have a general and permanent right of inspection. They are authorised to interview police personnel at any time, enter the premises where they carry out their duties and receive copies of any documents or any other objects they consider necessary. The AIG can require any complaints or accusations made to police departments to be referred to it for investigation.

229. The AIG acts:

- on its own initiative;
- on the orders of the Minister of Security and the Interior or the Minister of Justice;
- at the request of the judicial authorities, in particular the Federal Prosecutor, the prosecutors general and/or the Crown Prosecutors;
- at the request of the administrative authorities;
- at the request of the Federal Police Council;
- at the request of a senior officer of the local police;
- at the request of the Commissioner General and Directors General of the Federal Police;
- at the request of any member of the Integrated Police Force or a trade union;
- at the request of a member of the public.

230. It submits the results of its inspections and audits to the Interior and Justice Ministers and to the referral authority. It can make recommendations for remedying any problems identified

and improving the functioning of the branch of the service concerned. It must be informed in writing of action taken on its recommendations. If, in the course of its activities, it uncovers evidence of conduct that could lead to disciplinary or judicial proceedings, it will notify the relevant authorities accordingly.

231. In addition, through its statutory missions, the Inspector General ensures the integrity of staff members before the beginning of their careers: he assesses their integrity during probationary periods, professional evaluations, promotion to the rank of CDP, assignment of mandated functions and during disciplinary expertise.

#### The Standing Committee for Monitoring Police Departments (P Committee)

232. The P Committee was established by the Act of 18 July 1991 on the supervision of police and security services, and is answerable to the federal parliament. It is particularly concerned with the effectiveness and co-ordination of police activities and with ensuring that these are consistent with citizens' freedoms and fundamental rights.

233. The P Committee comprises a five-member Standing Committee, assisted by inquiries and administrative sections.

234. The Standing Committee members are appointed by parliament for a renewable six-year term of office. Those concerned must have at least seven years' relevant experience in areas relating to the operations, activities and organisation of police or security services and have exercised responsibilities at a senior level. The committee must be chaired by a judge seconded from the judicial system. Its members have the same status as judges of the Court of Auditors.

235. The P Committee's inquiries section carries out monitoring and judicial functions. In the latter case, it is answerable to the judicial authorities rather than the standing committee. The unit is managed by a Director General, assisted by two Deputy Directors, who are appointed (and potentially dismissed) by the Standing Committee, for a five-year renewable term of office. The inquiries section has a staff of 43 out of a theoretical establishment of 52.

236. The administrative section is headed by a registrar, appointed by the House of Representatives, which also has the power of dismissal. It has 31 members of staff out of a theoretical establishment of 36 and has three sub-sections: support, data management and complaints.

237. Members of the P Committee and its operational sections are bound by professional confidentiality, incompatibility rules and the requirement to stand down in the event of conflict of interest.

238. The P Committee has full operational autonomy and can decide at any time to launch an inquiry:

- on its own initiative;
- at the request of parliament;
- at the request of the Interior Minister, regarding the exercise of administrative police functions;
- at the request of the Minister of Justice, regarding the exercise of criminal police functions;
- at the request of any competent authority;
- following a complaint or accusation from any source.



239. The P Committee's inquiries have four purposes, namely to: (1) assess how the police carry out their duties, (2) identify any shortcomings or malfunctions in their systems, structures or methods, (3) formulate conclusions, accompanied by proposals and recommendations to the police and relevant authorities, and (4) ensure that its recommendations are properly implemented.

240. The Committee's inquiry reports are transmitted to parliament and the appropriate authorities and, in principle, are available to the public. It is then required to assess what action is taken on its conclusions and recommendations and submit a follow-up report to parliament and the relevant authorities. Once again, in principle this report can be consulted by the public.

241. The P Committee uses a number of investigation methods to carry out inquiries for monitoring purposes or in response to complaints or accusations: interviews with all those concerned, whose subject matter can include information covered by professional confidentiality, other than matters concerning a current judicial inquiry or investigation; summoning assistance from experts or interpreters; summoning assistance from law enforcement bodies; searches of any premises in which the police operate; seizure of objects or documents of relevance to the inquiry; setting binding deadlines for police departments or individual officers to respond to demands; legally obliging various authorities to supply information to the committee.

242. However, when carrying out an official criminal investigation, the inquiries section operates in accordance with the Code of Criminal Investigation and the legislation setting down the powers of criminal police officers, whose status they share. Accordingly, the inquiry section, whether on its own initiative or on the instructions of the Crown Prosecutor or the relevant investigating judge, conducts inquiries into offences of which police officers are accused in competition with other criminal police officers, over whom it may even have right of precedence.

243. The P Committee has no authority to discipline members of the Integrated Police Force. However, the Chair of the committee is empowered to require the disciplinary authorities to initiate an investigation. When such a disciplinary authority is informed by the P Committee Chair of facts that might constitute a disciplinary offence it must decide whether the circumstances warrant disciplinary proceedings and inform the Chair of the action taken in response. If the normal disciplinary authority decides not to take action, the Chair of the P Committee can take the case to the higher disciplinary authority. When, in the course of an investigation, a member of the P Committee inquiries section finds that a disciplinary offence might have occurred, the Director General of the section must immediately pass this information on to the relevant disciplinary authority.

244. On 16 June 2016 the AIG and the P Committee signed an agreement on exchanges of information and collaboration between the two bodies. It covered their division of responsibilities, consultations and exchanges of information on inquiries that posed a risk of duplication and overlap. A ministerial directive of 22 September 2011 on the division of responsibilities regarding criminal police investigations of offences involving police officers established the principles governing who should conduct such inquiries. The directive gave the P Committee priority for investigating corruption offences involving the police when these were committed in association with criminals, acting either individually or in a criminal organisation. Despite these documents, several of the people with whom the GET spoke said that the division of responsibilities between the two bodies was not always clear, particularly for police officers wishing to report a violation, who did not know which organisation to contact.

### *Public and civil society monitoring*

245. Members of the public and civil society can lodge complaints or report possible offences involving police officers to the P Committee, the AIG, the Crown Prosecutor, investigating judges or the relevant police officer's superior.

246. The AIG and the P Committee in particular can receive complaints through a number of channels, such as letters, emails or telephone calls. The AIG's site includes a complaints form that can be downloaded and sent back by email or ordinary post. Complaints are then directed to whichever body is best suited to deal with them, namely the judicial authorities, the P Committee inquiries section or the relevant hierarchical authorities. There are no formal requirements or costs associated with submitting complaints and anonymous complaints are sometimes accepted. Complaints are then directed to the body best able to deal with them, namely the judicial authorities, the P Committee, the AIG or the competent line of authority. Complainants are informed of decisions to terminate inquiries, together with the findings.

247. The P Committee and the AIG have developed a database with the initials KLFP (*KlachtenFiche-FichePlaintes*) on complaints and reports of violations concerning police personnel received by the police authorities. The application is available on the general police network and enables the police to inform the P Committee and the General Inspectorate of complaints received at operational level. The GET was informed that police departments were not obliged to input the relevant information to the database and that not all of them did so. It therefore only offers a partial view of the situation. The AIG and the P Committee are currently making efforts to simplify it. In this context, the GET encourages the authorities to ensure that input to the KLFP database is more rigorous and systematic so that the supervisory bodies will have more comprehensive information on complaints concerning police officers.

### *Reporting obligations and whistle-blower protection*

248. The Act of 15 September 2013 on the reporting of suspected breaches of integrity in federal administrative authorities by members of their personnel (see paragraphs 130 et seq. of this report) was amended on 8 May 2019 to extend its scope expressly to the entire Integrated Police Force.

249. The modification, which came into effect on 17 June 2019, clarifies the previous situation. It was unclear whether the 2013 legislation was applicable to the Integrated Police Force and the Federal Ombudsman's Integrity Centre (CINT), which was empowered to receive such reports, had not received any from the police. Police whistle blowers were more likely to contact the P Committee, but their only form of protection was to make an anonymous report.

250. The May 2019 legal amendments provide a new procedure for integrated police personnel to report a suspected breach of integrity in the integrated police. A new system is to be used to make such a denunciation, of which the P Committee constitutes the external component when the whistleblower is a police officer. Other changes include extending the period of protection for whistle blowers from two years to three, making the procedure available to former personnel who left the service within the previous two years and offering whistle blowers and anyone else associated with the relevant inquiry to be posted temporarily, and subject to conditions, to another police department or another federal organisation. The GET welcomes the steps taken by the Belgian parliament to offer better protection to whistle blowers.

251. In connection with reporting obligation, under the Act of 15 September 2013 members of personnel who have knowledge of a serious or lesser offence are no longer obliged to report the fact to the Crown Prosecutor, pursuant to Article 29 of the Code of Criminal Investigation<sup>59</sup>. This obligation has been transferred to so-called trusted persons (PCIs/VPs), the P Committee and the CINT.

252. In addition, under point 13 of the Code of Conduct, if members of personnel are aware of “serious violations of the rules of conduct that could result in serious or irreparable harm”, they must take all appropriate steps to stop them. Paragraph 2 of the point states that if those concerned directly witness criminal or dangerous acts, unlawful violence or inhuman treatment they must intervene to stop them and report them to the relevant authority. The GET notes that this point does not provide for a general obligation to report breaches of ethics and invites the Belgian authorities to plug this gap as part of its updating of the Code of Conduct recommended in paragraph 166.

*Criminal proceedings and immunity*

253. The members of the Federal Police do not enjoy any immunity. They are subject to normal criminal procedure.

*Statistics*

**Table 1: Number of corruption complaints concerning police officers lodged directly with the P Committee for the period 2013 – 2017 and outcomes**

Introductory comments:

(1) When they are coded in the P Committee’s database, the allegations made in complaints are classified on the basis of predetermined codes. The codes allocated reflect the classification given to complainants’ original allegations and are not subsequently modified to take account of inquiry results. It must therefore be borne in mind that the figures below do not necessarily reflect the actual findings of inquiries.

(2) Since complaints often relate to several grievances, more than one code may be allocated to the same complaint to reflect the allegations.

CORRUPTION	2013	2014	2015	2016	2017	TOTAL
Number of complaints	2	2	7	5	4	20
Total number of complaints for any reason	2885	2771	2561	2663	2733	
<b>Outcomes:</b> <sup>60</sup>						
Closed with no action taken/ no jurisdiction <i>rationae materiae</i>	0	1	2	2	1	6

<sup>59</sup> However, the Act of 15 September 2013 does not exempt police officers from the application of Article 40 of the Law of 5 August 1992 on the police function (drawing up minutes in the event of complaints, findings and denunciations), the failure to comply which is a criminal offence.

<sup>60</sup> The same complaint may have several outcomes since complaints frequently involve more than one grievance. The total number of outcomes does not, therefore, necessarily correspond with the total number of cases.

Prosecution service	1	0	4	2	1	8
Police	0	0	1	2	1	4
P Committee inquiry section	1	1	1	1	1	5

**Table 2: Number of complaints of “actions incompatible with the profession-multiple activities”<sup>61</sup> concerning police officers lodged directly with the P Committee for the period 2013 – 2017 and outcomes**

MULTIPLE ACTIVITIES	2013	2014	2015	2016	2017	TOTAL
Number of complaints	8	12	10	7	3	40
Total number of complaints for any reason	2885	2771	2561	2663	2733	
<b>Outcomes:</b>						
Closed with no action taken/ no jurisdiction <i>rationae materiae</i>	3	2	1	1	0	7
Prosecution service	1	2	2	2	0	7
Police	3	4	5	4	3	19
P Committee inquiry section	3	6	4	3	0	16

**Table 3: Number of judicial inquiries concerning police corruption referred to the P Committee inquiry section for the period 2013 – 2017**

CORRUPTION	2013	2014	2015	2016	2017
Total number of corruption inquiries	7	3	7	4	1
Total number of inquiries	128	113	130	127	138

**Table 4: Judgements and other court decisions concerning police corruption reported to the P Committee for the period 2013 - 2017 under Section 14.1 of the Institutional Act of 18 July 1991**

Introductory comment: Although this is a legal obligation, the P Committee has noted on various occasions that it is not advised of all court judgments and other decisions relating to the police.<sup>62</sup> This is therefore a very approximate overview of the situation.

<sup>61</sup> This concerns the exercise of outside activities.

<sup>62</sup> The P Committee closely monitors the daily press. When it reads about a case involving a police officer, it always asks the judicial authorities for information on the decision handed down.

CORRUPTION	2013		2014		2015		2016		2017	
	Not established	Established	Not established	Established	Not established	Established	Not established	Established	Not established	Established
Judgments and other court decisions section 14.1	0	0	7	3	4	0	3	1	10	0

## VI. RECOMMENDATIONS AND FOLLOW UP

254. In view of the findings of the present report, GRECO addresses the following recommendations to Belgium:

*Regarding central government (top executive functions)*

- (i) that (i) rules be laid down setting out the conditions governing the direct recruitment and employment of members of strategy units that take account of the risks relating to integrity and conflicts of interest and (ii) the names and duties of all "collaborateurs de fond" be published on the government's internet sites (paragraph 36);
- (ii) that a co-ordinated strategy be drawn up, based on a risk analysis, aimed at promoting the integrity of persons performing top executive functions (paragraph 40);
- (iii) that (i) an ethical code be adopted for Ministers and steps be taken to ensure that members of strategic bodies are subject to a clear and harmonised ethical framework, and (ii) that the code or codes is/are accompanied by supervisory arrangements and appropriate sanctions (paragraph 45);
- (iv) (i) ensuring that all persons exercising top executive functions have access to mechanisms for promoting and raising awareness of integrity matters, including confidential advice and (ii) that these persons receive training when they take up their duties and at regular intervals thereafter (paragraph 49);
- (v) ensuring that the various strategy units come within the scope of the legislation on administrative disclosure of information (paragraph 53);
- (vi) ensuring that documents produced by Ministers and their strategy units are conserved in an appropriate manner and that they are available to their successors to ensure that affairs are properly conducted (paragraph 54);
- (vii) that (i) steps be taken to ensure an appropriate level of consultation on government draft legislation, and (ii) the results of these public consultations are published online in due time and are easily accessible (paragraph 57);
- (viii) that (i) rules and guidelines be introduced on how persons exercising top executive functions should manage their contacts with lobbyists and other third parties seeking to influence government processes and decisions; and (ii) steps be taken to make the purpose of such contacts more transparent, by identifying the persons with whom, or on behalf of whom, the contact has taken place and the specific subject matter(s) of the discussions (paragraph 60);
- (ix) that an ad hoc reporting requirement be introduced for persons occupying top executive functions whenever situations of conflict between their private interests and their official duties arise (paragraph 77);

- (x) that a full set of rules be drawn up on gifts and other benefits for persons occupying top executive functions, in the form of practical and relevant directives requiring them to declare gifts and other benefits, and that this information be made available to the public (paragraph 84);**
- (xi) that (i) for a certain period, persons occupying top executive functions be required to inform an appropriate body of any new professional activities entered into, and (ii) following assessment, such activities be regulated or prohibited, as appropriate, to avoid any suspicion of conflict of interest when they concern a field of activity subject to authorisation or scrutiny by the body that the individual is leaving (paragraph 89);**
- (xii) (i) that the published declarations of persons occupying top executive functions also include relevant information on their assets, including liabilities, their previous activities and their outside activities; (ii) considering also including information on these persons' spouses and dependent members of their family (on the understanding that such information would not necessarily have to be published) (paragraph 96);**
- (xiii) that declaration and oversight arrangements be substantially revised to ensure more rapid publication of these declarations, coupled with more active and effective oversight (paragraph 106);**
- (xiv) that the legislation on reporting suspected breaches of integrity in federal administrative authorities be extended to cover strategy units (paragraph 128);**

*Regarding law enforcement agencies (police and border guards)*

- (xv) that the actual staffing level of the Commissioner General/Integrity department be increased (paragraph 153);**
- (xvi) that the Code of Conduct be brought up to date and that steps be taken to ensure that there are regular updates in the future (paragraph 167);**
- (xvii) that an examination be carried out of ways of increasing the stability of the Federal Police senior management, with a view to taking relevant measures to that effect (paragraph 177);**
- (xviii) that checks on candidates' integrity be carried out in the context of changes of post and promotion – including promotion to senior grades – and at regular intervals in the course of officers' careers (paragraph 182);**
- (xix) that the right to exercise outside activities be strictly governed by objective and transparent criteria and that this be accompanied by effective oversight arrangements (paragraph 204);**

- (xx) that the authorities assess the need to introduce an obligation to declare assets/interests in respect of top management and/or certain at-risk positions in the police, with a view to introducing such rules (paragraph 214);**
- (xxi) ensuring that the internal control department is given the resources to actively combat corruption and to offer a meaningful statistical oversight of disciplinary cases in the Federal Police (paragraph 215);**
- (xxii) that members of the police be obliged to reveal that status when they are the subject of a criminal investigation or conviction, or that they inform the competent internal service of the integrated police of an ongoing criminal investigation or conviction (paragraph 216).**

255. Pursuant to Art. 30.2 of the Rules of Procedure, GRECO invites the authorities of Belgium to submit a report on the measures taken to implement the above-mentioned recommendations by 30 June 2021. The measures will be assessed by GRECO through its specific compliance procedure.

256. GRECO invites the Belgium authorities as soon as possible to authorise the publication of this report, translate it into the other national languages and make these translations public.





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## 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 this 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 session.

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 of 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/en](http://www.coe.int/greco/en).

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