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# FIFTH EVALUATION ROUND

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

## SECOND COMPLIANCE REPORT

# POLAND



Adopted by GRECO  
at its 94<sup>th</sup> Plenary Meeting (Strasbourg, 5-9 June 2023)



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

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## I. INTRODUCTION

1. GRECO's Fifth Evaluation Round deals with "Preventing corruption and promoting integrity in central governments (persons entrusted with top executive functions or PTEFs) and law enforcement agencies (LEAs)".
2. This Second Compliance Report assesses the measures taken by the authorities of Poland to implement the recommendations issued in the [Fifth Round Evaluation Report on Poland](#) which was adopted at GRECO's 81<sup>st</sup> Plenary Meeting (7 December 2018) and made public on 28 January 2019. The corresponding [Compliance Report](#) was adopted by GRECO at its 87th Plenary Meeting (25 March 2021) and made public on 27 September 2021.
3. As required by GRECO's Rules of Procedure<sup>1</sup>, the authorities of Poland submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 December 2022 and served, together with additional information subsequently provided, as a basis for the Second Compliance Report.
4. GRECO selected the United Kingdom (with respect to top executive functions in central governments) and Estonia (with respect to law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr David MEYER on behalf of the United Kingdom, and Ms Mari-Liis SÖÖT on behalf of Estonia. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

## II. ANALYSIS

5. GRECO addressed 21 recommendations to Poland in its Fifth Round Evaluation Report. In the Compliance Report, GRECO concluded that recommendation xvii had been dealt with in a satisfactorily manner, recommendations ii, ix, xiv, xv and xx had been partly implemented and recommendations i, iii-viii, x-xiii, xvi, xviii, xix and xxi had not been implemented. Compliance with the outstanding recommendations is examined below.

*Preventing corruption and promoting integrity in central governments (top executive functions)*

### **Recommendation i**

6. *GRECO recommended that a general integrity plan be elaborated in respect of all duly identified groups of persons exercising top executive functions, as an overarching structure to the integrity arrangements existing in some ministries, aiming at preventing and managing risks of corruption including through responsive advisory, monitoring and compliance measures.*
7. GRECO recalls that this recommendation was not implemented in the Compliance Report. It noted that the development of two sets of guidelines regarding the creation

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<sup>1</sup> The Compliance procedure of GRECO's Fifth Evaluation Round is governed by its Rules of Procedure, as amended: Rule 31 revised bis and Rule 32 revised.

and implementation of effective compliance programmes in the public sector and the uniform organisational and legal solutions to counter corruption in public administration had not met the requirements of the recommendation for an integrity plan in respect of all duly identified groups of PTEFs, as an overarching structure to the integrity arrangements in some ministries.

8. The Polish authorities have not reported any new measures taken with regard to this recommendation, reiterating that the elaboration of the two sets of guidelines satisfy the requirements of this recommendation. Also, they provide that the Central Anti-corruption Bureau has carried out trainings in order to implement this recommendation (see paragraph 17 below for more information).
9. GRECO notes that no further progress has been made and concludes that recommendation i remains not implemented.

#### **Recommendation ii**

10. *GRECO recommended that a comprehensive code of conduct be developed for persons exercising top executive functions covering inter alia gifts and other benefits and conflicts of interest, accompanied by appropriate guidance including explanatory comments and concrete examples.*
11. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The ethical rules had spread over two sets of guidelines (see paragraph 7 above) which for the most part targeted public administration employees and were not consolidated in a single document focusing on PTEFs. The first set of guidelines (on effective compliance programs) included guidance on gifts and other benefits, comprising a template register for gifts and benefits, and the second set of guidelines (on organisational and legal solutions to combat corruption in public administration) contained rules of conduct in respect of public officials, providing five examples of corruption risks in public official-client relations. The second set of guidelines also comprised a specific section on PTEFs, which introduced a code of conduct for PTEFs, but without any explanatory comments or concrete examples.
12. The Polish authorities have not reported any new measure taken with regard to this recommendation, reiterating that the adopted guidelines satisfy the requirements of this recommendation. However, they provide that work is underway on producing an anti-corruption handbook for PTEFs, which will include practical rules and concrete examples for dealing with gifts, conflicts of interests and contacts with lobbyists and third parties.
13. GRECO takes note of the proposed publication of practical guidance and concrete examples on gifts, conflicts of interests and contacts with lobbyists. GRECO encourages the authorities to pursue their efforts to bring the publication to fruition, including the publication of concrete examples and guidance on how to deal with ethical dilemmas, drawing their attention to paragraph 33 of the Evaluation Report that the publication ought to cover all relevant integrity rules and principles. Pending receipt and publication

of such document, GRECO cannot say that the recommendation has been fully addressed.

14. GRECO concludes that recommendation ii remains partly implemented.

**Recommendation iii**

15. *GRECO recommended (i) developing mechanisms to promote and raise awareness on integrity matters (and the future rules of conduct) among persons exercising top executive functions, including through integrity training at regular intervals; (ii) establishing a dedicated confidential counselling function to provide these persons with advice on integrity, conflicts of interest and corruption prevention.*
16. GRECO recalls that this recommendation was not implemented in the Compliance Report. As regards the first part of the recommendation, it noted that the training program devised by the authorities had focused on the civil service in general and that no mechanism had been developed to raise awareness on integrity matters amongst PTEFs. As regards the second part, it recognised that the appointment of ethics advisers in ministries had become a general policy and that there existed various avenues for PTEFs to seek advice (such as from the ethics advisers, departmental coordinators for the implementation of the Government's Anti-corruption Programme, the internal audit departments or the Central Anti-corruption Bureau-CAB), without establishing a dedicated confidential counselling function for PTEFs.
17. The Polish authorities, in addition to reiterating their prior submissions about the organisation of training for the civil service and the various avenues for PTEFs to seek confidential advice, now report that the CAB is working towards devising a new anti-corruption strategy, which would include the creation of a training module for PTEFs on the CAB's e-learning training platform and the development of a system to provide ethics advice to the civil service, including PTEFs. In this regard, CAB has carried out onsite or remote anti-corruption training activities for a total of 1,445 institutions, mainly entities disposing of public funds, such as ministries, including companies with State Treasury participation. Its trainings have been attended by over 60,000 persons, including government officials and employees. The training modules, which chiefly target civil servants and management of public entities, can be attended free of charge at [www.szkolenia-antykorypcyjne.edu.pl](http://www.szkolenia-antykorypcyjne.edu.pl) and [www.antykorypcja.gov.pl](http://www.antykorypcja.gov.pl). CAB is also working towards redesigning its website and building the #ABChonesty portal, which will include a revamping of the [www.antykorypcja.gov.pl](http://www.antykorypcja.gov.pl) website, creation of a broad database of knowledge, and the possibility to directly and anonymously contact and report irregularities or ask questions to a dedicated CAB expert online.
18. GRECO takes note of the training activities organised by the Central Anti-corruption Bureau which target employees and officials of public entities, including companies with State equity shares. It also welcomes plans to introduce an e-training module and develop a dedicated confidential counselling channel for PTEFs in the future, which are yet to materialise. Pending such dedicated trainings for PTEFs and the establishment of

a dedicated confidential counselling channel, GRECO cannot consider that this recommendation has been complied with, even partly.

19. GRECO concludes that recommendation iii remains not implemented.

#### **Recommendation iv**

20. *GRECO recommended ensuring that an independent oversight mechanism is in place to guarantee the effective implementation of the freedom of information legislation.*
21. GRECO recalls that this recommendation was not implemented in the Compliance Report. The authorities had maintained that an independent oversight mechanism was not necessary and had taken no steps towards the implementation of this recommendation.
22. The Polish authorities reiterate their prior submissions that the 2001 Act on Access to Public Information provides for a supervision mechanism for its implementation, exercised by the Ombudsman and administrative courts, including the Supreme Chamber of Control.
23. In the absence of any progress, GRECO concludes that recommendation iv remains not implemented.

#### **Recommendation v**

24. *GRECO recommended ensuring that governmental legislative proposals effectively involve appropriate timelines for consultation and adequate impact assessments in practice, and that contacts and inputs received before the formal launching of consultations be equally documented.*
25. GRECO recalls that this recommendation was not implemented in the Compliance Report. No steps had been taken to ensure that appropriate timelines for consultation were in place and that contacts and inputs received before the formal launching of consultations were documented. Plans were underway to establish a mechanism for evaluating draft legislation in the government's legislative process in terms of corruption risks and a mechanism for analysing the impact assessment of legislation (both *ex ante* and *ex post*).
26. The Polish authorities now report that the mechanism for the assessment of corruption risks in draft legislation for certain regulatory areas has been developed. According to the mechanism, the CAB will carry out such assessment of the proposed draft legislation. Also, the mechanism aims at strengthening the analytical tool of regulatory impact assessment, which is obligatory for every governmental legislative proposal, and increasing the potential of ex-post assessment.
27. GRECO takes note of the development of the mechanism for the assessment of corruption risks in draft legislation recognising, at the same time, that no pertinent

information has been provided with reference to establishing appropriate timelines for consultation of governmental legislative proposals, a consolidated practice that all governmental legislative proposals include adequate impact assessment (see also para. 42 of the Evaluation Report<sup>2</sup>), and documenting contacts and inputs received before the formal launching of consultations.

28. GRECO concludes that recommendation v remains not implemented.

#### **Recommendation vi**

29. *GRECO recommended (i) that detailed rules be introduced on the way in which persons exercising top executive functions interact with lobbyists and other third parties seeking to influence the public decision-making process; and (ii) that sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion.*
30. GRECO recalls that this recommendation was not implemented in the Compliance Report. The authorities had carried out an analysis of the effectiveness of the Act on Lobbying Activities in the Process of Law-making, without GRECO being informed of its outcomes. Further, the guidelines on the rules of conduct in a situation of corruption which included a model of a gift policy and benefits' register (see paragraph 11 above) had not addressed the concerns underlying this recommendation.
31. The Polish authorities, in addition to reiterating the prior submissions, now report that work is underway on producing an anti-corruption manual for PTEFs, which will include a code of conduct on gifts, conflicts of interest and contacts with lobbyists and third parties, and contain explanations and concrete examples (see also paragraph 12 above). Also, the Central Anti-corruption Bureau has carried out trainings in order to implement this recommendation (see paragraph 17 above for more information).
32. GRECO notes that, as regards the first part of the recommendation, it has not been provided with a copy of the proposed publication which, it would expect, will include rules on how PTEFs are to interact with lobbyists and third parties. No information has been provided by the authorities towards the implementation of the second part of the recommendation.
33. In these circumstances, GRECO concludes that recommendation vi remains not implemented.

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<sup>2</sup> The Supreme Audit Office had well documented problems relating to missing impact assessment on government initiatives.

### **Recommendation vii and viii**

34. GRECO recommended:

- *that common cross-government rules and guidance are introduced on ancillary activities; (recommendation vii)*
- *broadening the scope of application of the legislation on post-employment restrictions, in order to deal effectively with conflicting activities and to prevent improper moves to the private sector after the termination of functions of persons exercising top executive functions; (recommendation viii)*

35. GRECO recalls that these recommendations were not implemented. As regards recommendation vii, no measures had been taken to introduce common cross-government rules and guidance on ancillary activities<sup>3</sup>. Concerning recommendation viii, the authorities referred to the future transposition of the EU Directive 2019/1 on the empowerment of competition authorities of member states, without specifying the nature of the post-employment restrictions to be introduced.

36. The Polish authorities have not provided any new relevant information, reiterating their prior submissions. They add that the EU Directive 2019/1 aims at ensuring the independence of the national competition authority, requiring its staff members to refrain from dealing with proceedings that could give rise to conflicts of interest.

37. GRECO notes that no further progress has been made and concludes that recommendations vii and viii remain not implemented.

### **Recommendation ix**

38. *GRECO recommended that (i) the asset declaration system currently in place for different categories of persons exercising top executive functions be streamlined notably with a central register and accompanying guidance, and that the information is made easily and publicly accessible and that (ii) consideration be given to widening the scope of asset declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public)*

39. GRECO recalls that this recommendation was partly implemented. As regards the first part, it noted the intention to reform the asset declaration system by creating a uniform system for submission, analysis and control of asset declarations. Concerning the second part, GRECO noted that certain legislative amendments, the constitutionality of which was pending for review before the Constitutional Tribunal, extended the scope of asset declarations to include certain data on spouses and dependent family members. Those legislative amendments would apply only to PTEFs who were also MPs, while no

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<sup>3</sup> The authorities referred to restrictions on conducting business activities and performing certain functions by PTEFs set out in the 1997 Act on Restrictions on Conducting Business Activities by Persons Performing Public Functions which had already been referred to in the Evaluation Report.

consideration was given to extend the scope of asset declarations submitted by PTEFs who were not MPs.

40. The Polish authorities, in addition to reiterating the prior submissions, now report that the new anti-corruption strategy plans to include measures on the digitalisation, unification and modernisation of the system for the submission, analysis and verification of asset declaration, to be accompanied with the necessary legislative changes. The Central Anti-corruption Bureau's (CAB) website contains publications related to the control procedures. CAB also conducts trainings on the implementation of obligations related to asset declarations. Practical issues concerning asset declarations will be one of the elements of the #ABChonesty portal, which is being designed by CAB.
41. As regards the first part of the recommendation, GRECO takes note of the intention to reform the asset declaration system as part of the measures to be included in the new anti-corruption strategy. However, no additional relevant information has been provided regarding the publication of declarations for all PTEFs. Even though the authorities refer to materials made available on the website of the Central Anti-corruption Bureau (CAB), which also carries out trainings, concrete accompanying guidance concerning the completion of asset declarations (on, for example, what is to be declared, how to fill out the forms and how certain assets are to be valued and so on) is expected to become part of the future #ABChonesty portal to be designed by CAB. No additional information been provided about considering widening the scope of asset declarations to include information on spouses and dependent family members, as required by the second part of the recommendation.
42. GRECO concludes that recommendation ix remains partly implemented.

#### **Recommendation x**

43. *GRECO recommended establishing an independent review mechanism for the declarations of financial interests of persons entrusted with top executive functions, provided with adequate legal, technical and other means to perform its tasks in an effective and accountable manner*
44. GRECO recalls that this recommendation was not implemented. In spite of the authorities' assertions that the legislation ensured an appropriate level of independent supervision by the CAB and the Supreme Chamber of Control, GRECO had misgivings about the asset review system, as expressed in the Evaluation Report, and considered that no independent review mechanism was established.
45. The Polish authorities have not provided any new relevant information, reiterating the prior submissions about the level of independence ensured by the CAB and the Supreme Chamber of Control.
46. GRECO concludes that recommendation x remains not implemented.

#### **Recommendation xi**



47. *GRECO recommended that a robust mechanism of supervision and sanction be put in place for the effective implementation of the future rules of conduct and other standards for the prevention of corruption.*
48. GRECO recalls that this recommendation was not implemented. The guidelines for the creation and implementation of effective compliance programmes in the public sector (see paragraph 7 above) referred in a rather general manner to the enforcement of norms. The section on PTEFs appended to the guidelines on organisational and legal solutions to combat corruption in public administration (see paragraph 11 above) did not envisage any possible supervision or enforcement.
49. The Polish authorities have not provided any new relevant information, reiterating that the current system of oversight and accountability, including criminal and disciplinary sanctions, is adequate and sufficient to protect the public sector from undesirable actions of a corrupt nature.
50. In the absence of any news measures taken, GRECO concludes that recommendation xi remains not implemented.

#### **Recommendation xii**

51. *GRECO recommended that in respect of persons exercising top executive functions, an in-depth reform of the system of immunities be carried out with a view to facilitating the prosecution of corruption-related offences by excluding these from the scope of immunities and by ensuring that the procedure for the lifting of the immunity is transparent and based on objective and fair criteria used effectively in practice*
52. GRECO recalls that this recommendation was not implemented. Misgivings had been expressed in the Evaluation Report regarding the scope of the system of immunities (which included acts unrelated to official duties) and the process for lifting parliamentary immunity (the parliamentary committee could demand access to full criminal file, no fair and objective criteria were in place taking decisions and transparency was lacking). Parliamentary immunity was shown to be an obstacle in cases initiated against certain PTEFs who were MPs, and a similar issue raised in the First Evaluation Round report had not been addressed.
53. The Polish authorities, in addition to reiterating their prior submissions, now contend that the implementation of this recommendation would require constitutional and statutory amendments, which would lead to a weakening of the institution of parliamentary immunity and to a difference in treatment of MPs who may also be PTEFs. They further refer to two legislative initiatives related to the planned lifting of parliamentary formal immunity (Sejm prints nos. 2796 and 2797). In their view, the procedure for waiving immunities is transparent, public and broadcast.
54. GRECO notes that the purpose of this recommendation is precisely to carry out an in-depth reform of the system of immunities enjoyed by PTEFs who are appointed from among the ranks of MPs, including necessary regulatory amendments, so that corruption offences are excluded from the scope of immunities and the procedure for

the lifting of immunities is transparent and based on objective and fair criteria (see also paragraphs 84-88 of the Evaluation Report). In spite of two legislative initiatives related to the planned lifting of parliamentary formal immunity, about which no detailed information has been provided, the fact remains that no in-depth reform has been carried out to date.

55. As no progress has been made, GRECO concludes that recommendation xii remains not implemented.

### **Recommendation xiii**

56. *GRECO recommended ensuring that proceedings before the State Tribunal do not hamper the prosecution of corruption-related offences before the ordinary courts.*
57. GRECO recalls that this recommendation was not implemented. It noted that the existence of various jurisdictions and procedures available in respect of PTEFs' prosecution of corruption-related offences hampered the possibility of effectively prosecuting them. A clear demarcation between such jurisdictions was necessary.
58. The Polish authorities now report that the recommendation would require constitutional and statutory amendments. The State Tribunal examines cases of "constitutional tort" committed by certain PTEFs. In addition, PTEFs may be held criminally liable before the State Tribunal for common criminal offences or fiscal offences committed in connection with their position, provided that the Sejm decides to hold them constitutionally responsible and that it is expedient to hold them, jointly, constitutionally and criminally liable. In such a case, the State Tribunal will take over the joint consideration of the case which may have been handled by the common courts. If the prosecution of PTEFs for corruption offences were to take place only before the common courts, that would result in the institution of double proceedings for the same case. In the authorities' opinion, separating corruption offences from the general principle of PTEFs' liability for criminal and fiscal offences before the State Tribunal will not increase the effectiveness of the prosecution of corruption offences committed by PTEFs.
59. GRECO takes note of the information provided which does not alter the situation described in paragraphs 88-90 of the Evaluation Report. Indeed, in case the State Tribunal launches an investigation in a case concerning common crimes, including corruption, which is already handled by the Prosecutor's office, the latter will withdraw from the case. This increases the risk of political interference in politically sensitive cases (see paragraph 88 of the Evaluation Report). Furthermore, the lack of effectiveness of the procedures before, and the ineffective functioning of, the State Tribunal was duly described in the Evaluation Report, together with the increased influence of the executive and legislative branches of power over the judiciary and the prosecution system (paragraphs 89-91). In GRECO's view, this duality of procedural avenues continues to adversely affect the effectiveness of the criminal justice response in cases involving PTEFs' prosecution for corruption offences.
60. GRECO concludes that recommendation xiii remains not implemented.

*Regarding law enforcement agencies*

**Recommendation xiv**

61. *GRECO recommended that the Police and Border Guard undertake comprehensive risk assessments of corruption-prone areas and activities, beyond what is revealed by the mere criminal cases actually processed, and that the data are used for the pro-active design of integrity and anti-corruption policies.*
62. GRECO recalls that this recommendation was partly implemented. As regards the Police, improvements were made to the methods of identifying risks of corruption and other abuses and data on possible risks and threats were used for the development of various anti-corruption and integrity measures. That led to the development of a “Programme for Strengthening Integrity and Combatting Corruption in the Police for 2021-2023”. Concerning the Border Guard, no information was provided on changes made to ensure a more risk-based approach or on the pro-active design of integrity and anti-corruption policies.
63. The Polish authorities now report that the implementation of the “Programme for Strengthening Integrity and Combatting Corruption in the Police for 2021-2023” is underway and is supplemented with anti-corruption content to develop the proactive skills of police managers.
64. As regards the Border Guard, several measures have been taken to improve the mechanisms for identifying corruption risks within the framework of management control and training activities. Decisions of managers of organisational units of the Border Guard have aimed for consistency by adding a mechanism for taking anti-corruption measures. According to the mechanism, management control self-assessment questionnaires are used by managers of organisational units in order to include information on the identified areas of corruption risk in their organisation units. As part of developing an annual internal audit plan, risk areas have been identified on the basis of vulnerability to fraud and corruption threats. If the risk materialises, appropriate information is provided to managers at each stage of the process. The auditor then initiates, on the basis of the management’s decision, actions commensurate with the threat level (e.g. criminal proceedings, fiscal proceedings, employee liability, asset liability, etc.). As part of the 2022 training programme for internal auditors of the Border Guard, the work of internal audit and reporting process towards the implementation of the GRECO recommendations was discussed. Control activities are carried out by the Control Office of the Border Guard. When developing periodic control plans, one of the risk factors considered is the possibility of fraud, abuse, corruptive areas and mechanisms. When analysing the areas of control, comprehensive use is made of internal and external sources, in particular the results of previous audits, complaints and other reported irregularities.
65. As regards trainings, an e-training course on “Self control, self awareness, self discipline as important aspect of counteracting corruption” has been developed for employees and officers of the Border Guard who may be exposed to various forms of corruption

while performing their tasks and official duties. A briefing also took place in November 2022 where managers of control units of the Border Guard discussed the use of a risk analysis matrix taking into account, in particular, the possibility of the occurrence of corruptive areas and mechanisms.

66. GRECO notes with satisfaction that the implementation of the “Program for Strengthening Integrity and Combatting Corruption in the Police” has continued. As regards the Border Guard, GRECO takes note of the variety of measures introduced to identify corruption-prone areas and corruption risks (e.g. management control self-assessment questionnaires, the development of the annual internal audit plan, the conduct of periodic control activities, training and awareness raising activities). However, it is unable to conclude that a comprehensive risk assessment of corruption-prone areas and activities has been undertaken and, consequently, an overall integrity and anti-corruption policy or programme has been designed in respect of the Border Guard. For this reason, GRECO cannot conclude that this recommendation has been fully complied with.
67. GRECO concludes that recommendation xiv remains partly implemented.

#### **Recommendation xv**

68. *GRECO recommended that the rules of conduct for the Police and Border Guard be updated to better address gifts and other benefits, ad hoc conflicts of interest and relations with third parties, and be accompanied by appropriate comments and examples, as well as confidential counselling.*
69. GRECO recalls that this recommendation was partly implemented. Work on updating the rules of conduct in the Police was underway and a similar update was being planned for the Border Guard. A Plenipotentiary for the Protection of Human Rights, Equal Treatment and Professional Ethics was appointed as a confidential councillor to complement the existing ethics advisers in the Border Guard. The appointment of ethics advisers in each organisational unit of the Police was envisaged as part of the Programme for Strengthening Integrity and Combatting Corruption.
70. The Polish authorities now report that confidential ethics advisers have been designated in the Police organisational units either by appointing new ethics advisers or by entrusting this task to previously appointed plenipotentiaries or coordinators for the protection of human rights. The ethics advisers report directly to the heads of the Police units. In addition, a document entitled “Culture of Integrity in the Police – Standards of Conduct” was developed and made subject to consultation with the Police organisational units. The review of comments received is underway and the document will be approved by the Commander-in-Chief of the Police by the end of 2023.
71. As regards the Border Guard, a working group, which was established in June 2021, has produced a revised draft of the Principles of Professional Ethics of Border Guard officers which is pending the review by the legal office of the Border Guard. In addition, 12 persons were appointed to act as ethics advisers in the organisational units of the

Border Guard. Its intranet site includes a hyperlink for this purpose, together with contact details of ethics advisers.

72. GRECO welcomes the appointment of ethics advisers in Police and Border Guard organisational units. Pending the adoption of the updated Standards of Conduct for Police officers and the revised Principles of Professional Ethics for Border Guard officers, GRECO expects that, in order for this recommendation to be considered fully complied with, those documents will address issues such as gifts and other benefits, *ad hoc* conflicts of interest and relations with third parties, post-employment restrictions, etc., and be accompanied by appropriate guidance and practical examples.
73. GRECO concludes that recommendation xv remains partly implemented.

#### **Recommendation xvi**

74. *GRECO recommended establishing a career-based system for the appointment, promotion and dismissal of all senior managers in the Police and Border Guard, based on objective criteria, proper vetting and a formal, competitive and transparent process, it being understood that the function of chief commanders could be limited to a fixed term.*
75. GRECO recalls that this recommendation was not implemented. No steps were taken to improve the system of appointing, promoting and dismissing senior managers in the Police and Border Guard. The issue was the discretionary nature of decisions on appointments, promotions and dismissals of senior managers in both the Police and Border Guard, given the absence of objective criteria, proper vetting and formal, competitive and transparent procedures.
76. The Polish authorities now report about the entry into force of the Act of 17 December 2021 on the establishment of the Programme for the Modernisation of the Police, the Border Guard, the State Fire Service and the State Protection Service for the period 2022-2025, which has introduced amendments to the appointment, promotion and dismissal of senior managers in the Police and Border Guard. The Act has been supplemented by an ordinance of 16 December 2022 by the Minister of Internal Affairs on the educational, professional qualification and length of service requirements to be met by police officers in positions of police chiefs and other official positions. According to the authorities, appointment to a position will depend on criteria such as the educational background, professional experience and qualifications, the length of service, etc. It will take place after the conduct of a competition. There is a possibility of direct recruitment of candidates in certain fields, such as forensics and biology.
77. The issue of the appointment and dismissal of senior managers in the Border Guard has been regulated by the Act of 12 October 1990 on the Border Guard, as amended by the Act of 17 November 2021 amending the Act on the protection of the State border, and an Ordinance of the Minister of Internal Affairs and Administration of 11 April 2022 on the requirements to be fulfilled by a border guard officer in a specific official position.

78. The Polish authorities further submit that the introduction of a fixed term for the Commanders-in-Chief would not be feasible. As the Minister responsible for internal affairs bears political responsibility for all actions taken by the Commanders-in-Chief, the former must have the full right to personally designate the Commanders-in-Chief, who are then appointed by the Prime Minister, and to request their dismissal when they are found to not be performing the assigned duties properly. The proposal to introduce a fixed term of office for the Commanders-in-Chief would significantly impede, even make impossible, the effective civilian oversight of the Police and Border Police. Thus, the Polish Parliament has rejected the introduction of a fixed term for Chief Commanders.
79. GRECO takes note of the adoption of certain legislative acts, including implementing ordinances, no copies of which have been provided for its scrutiny. It would appear that certain modifications have taken place, at least on paper, regarding the appointment and promotion to senior positions in the Police, while GRECO has yet to ascertain that the process is competitive, transparent and based on objective criteria. In addition, information about conditions of dismissal and proper vetting is absent. No similar information has been provided in respect of appointment, promotion and dismissal of senior managers in the Border Guard. As regards the appointment and dismissal of Commanders-in-Chief, the authorities have not pointed to the existence or application of certain objective criteria to assess the suitability of candidates for those positions and their respective work performance, in line with the requirements of the recommendation to establish a career-based system for all senior managers in the Police and Border Guard.
80. GRECO concludes that recommendation xvi remains not implemented.

#### **Recommendation xviii**

81. *GRECO recommended developing a streamlined system for authorising secondary activities (remunerated or not) in the Police and Border Guard, which would involve effective follow-up after a permission was granted.*
82. GRECO recalls that this recommendation was not implemented. A proposal for a legislative amendment to the Police Act and the Act on the Border Guard, which would provide for a less decentralised, more detailed and solid procedure, had been tabled but, at the time, had not entered parliamentary procedure. In addition, the proposal would not extend to unremunerated activities.
83. The Polish authorities now report that the Police and Border Guard are in the process of assessing the draft legislative amendments in order to determine the manner of implementing this recommendation. The bill under review also includes a proposal to introduce to the Act on the Border Guard provisions eliminating the source of conflicts of interest resulting from subordination in service between spouses or persons remaining in a common household with one another, persons remaining with one another in a relationship of kinship or affinity as well as in a relationship of adoption, custody or guardianship.

84. GRECO notes that the proposal for draft legislative amendments to implement this recommendation is being reviewed by the Police and the Border Guard, without it having been submitted to parliamentary debate and without bringing any substantial developments to warrant upgrading the status of implementation of this recommendation.
85. GRECO concludes that recommendation xviii remains not implemented.

#### **Recommendation xix**

86. *GRECO recommended that a robust and effective system for the verification of declarations of assets and interests be introduced*
87. GRECO recalls that this recommendation was not implemented, because no concrete measures were taken to introduce a robust and effective system for the verification of declarations of assets and interests.
88. The Polish authorities now report that, by reference to recommendation ix, the Central Anti-Corruption Bureau (CAB) has put in place solutions aiming at the unification and digitalisation of the process for the submission and analysis of asset declarations of persons performing public functions. CAB has developed a concept for the construction of an IT system to support the process of receiving, recording and analysing asset declarations – the future Polish System for the Analysis and Control of Assets Declarations (SAKOM), with the assistance of international partners. Pilot testing was carried out and its launch will take place once the relevant regulations have been adopted. A draft law was submitted to the Standing Committee of the Council of Ministers and the legislative process has been put on hold since 2018 owing to a significant number of comments received.
89. GRECO takes note of the proposal to develop and introduce a system for the analysis and control of assets declaration – SAKOM, the implementation of which has stagnated pending the adoption of regulatory framework which has not moved forward since 2018. No other discernible progress has been reported since.
90. GRECO concludes that recommendation xix remains not implemented.

#### **Recommendation xx**

91. *GRECO recommended (i) clarifying the respective responsibilities of bodies dealing with the integrity and oversight of Police and Border Guard, and (ii) implementing coherent disciplinary approaches, on the basis of common guidelines.*
92. GRECO recalls that this recommendation was partly implemented. As regards the first part of the recommendation, information was provided on the role of the Internal Supervisory Office (ISO) under the direct command of the Minister of the Interior and Administration, which also clarified the issue of subordination of the Bureau of Internal

Affairs of the Police (BIAP) and the Bureau of Internal Affairs of the Border Guard (BIABG). However, sufficient clarification was missing as regards the avoidance of duplication of functions between those bodies. Concerning the second part, there was clarification of responsibilities regarding disciplinary proceedings in the Border Guard, while no steps were taken in the Police.

93. The Polish authorities now report that, as regards the first part of the recommendation, BIAP and BIABG are organisational units within each of the Police and Border Guard. In accordance with the Act on the Police and the Act on the Border Guard, they are responsible for detecting, preventing and combating crimes committed by officers and employees of the Police or the Border Guard, crimes against economic turnover committed to the detriment of the Police or the Border Guard, as defined in the Criminal Code, as well as for apprehending and prosecuting the perpetrators of these crimes. The ISO's tasks pertain to the exercise of supervision by the Minister responsible for internal affairs with respect to uncovering and analysing irregularities in connection with investigations and disciplinary proceedings, detecting, preventing and prosecuting crimes and fiscal offences, assessing the performance of BIAP and BIABG, assessing the implementation of the legislation and practices regarding the protection of classified information, assessing the fulfilment of the obligation to submit asset declarations, and analysing and evaluating the collection of personal data by the Police and the Border Guard.
94. The authorities further report that, as regards the second part of the recommendation, the Act on Special Solutions for the Support of Uniformed Services of 2020, supervised by the Minister responsible for internal affairs, brought about the same amendments to several provisions contained in the Act on the Police and the Act on the Border Guard regarding the conduct of disciplinary proceedings. In addition, on 29 December 2020 and 28 September 2021 the Minister of the Interior and Administration adopted an ordinance on the circulation of documents relating to disciplinary proceedings in the Border Guard and the Police, respectively. According to the amended Police Act, a disciplinary superior will initiate disciplinary proceedings, amongst others, on his/her own initiative, on a motion of the direct superior of a police officer, on an order of a higher superior, etc. Disciplinary proceedings are conducted by the disciplinary ombudsman, who collects evidence and takes the actions necessary to clarify the case. In the course of the proceedings, the police officer has the right to, amongst others, submit evidence and be represented by a defence counsel. The disciplinary superior will take a decision on the disciplinary proceedings, which is amenable to appeal to the higher disciplinary superior. The latter will appoint a three-member committee to examine the appeal, two of whom are appointed by the higher disciplinary superior and one by the trade union indicated by the police officer. The committee will draw up a report, including a proposal on the manner in which the appeal is to be settled, with the final decision belonging to the higher disciplinary superior. The decision may be appealed before the administrative court.
95. GRECO notes that, as regards the first part of the recommendation, the Internal Supervisory Office's (ISO) scope of responsibilities is broader than that of the Bureau of Internal Affairs of the Police (BIAP) and the Bureau of Internal Affairs of the Border Guard (BIABG), which may be subject to ISO' control. While all three bodies are



responsible for preventing, detecting, and prosecuting crimes, GRECO is of the view that there is a demarcation of responsibilities amongst the three bodies and considers that this part of the recommendation has been complied with. As regards the second part of the recommendation, both the Act on the Police and the Act on the Border Guard have been subjected to the same statutory amendments regarding certain provisions pertaining to the conduct of disciplinary proceedings. Two ordinances have been issued by the Minister of Internal Affairs in this regard. The amended Police Act provides further clarification of responsibilities as regards the conduct of the disciplinary proceedings in the Police. GRECO considers that both parts of this recommendation have been fully complied with.

96. GRECO concludes that recommendation xx has been implemented satisfactorily.

#### **Recommendation xxi**

97. *GRECO recommended that a clear process for the disclosure of crimes, misconducts and disciplinary violations within the Police and Border Guard be established, with appropriate protection measures against retaliation*
98. GRECO recalls that this recommendation was not implemented, as a clear process for the disclosure of crimes, misconduct and disciplinary violations within the Police and the Border Guard was yet to be established.
99. The Polish authorities now report that a draft law on the protection of whistleblowers, aiming at transposing the EU Directive 2019/137 of 23 October 2019, is pending before the parliamentary Standing Committee of the Council of Ministers. It will apply to a natural person who reports or discloses information on infringements in the work environment. The solutions contained in the draft act will not modify the existing provisions aiming at protecting whistleblowers (such as the principle of non-discrimination and the principle of equal treatment in employment), as provided in the Labour Code. Channels for internal and external reporting will be established, together with the rules for their operation and the rules for public disclosure.
100. GRECO recognises that a draft law on the protection of whistleblowers is subject to parliamentary consultation. However, pending the passage of the draft law by the Polish parliament, as well the introduction of a proper system for reporting suspicions, the establishment of reporting channels and the provision of protective measures against whistleblowers in the Police and the Border Guard, GRECO cannot say that this recommendation has been complied with, even partly.
101. GRECO concludes that recommendation xxi remains not implemented.

### **III. CONCLUSIONS**

102. **In view of the foregoing, GRECO concludes that Poland has implemented satisfactorily or dealt with in a satisfactory manner two of the twenty-one recommendations contained in the Fifth Round Evaluation Report.** Four recommendations remain partly

implemented and fifteen recommendations remain not implemented. More specifically, recommendation xvii and xx have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations ii, ix, xiv, and xv have been partly implemented and recommendations i, iii-viii, x-xiii, xvi, xviii, xix and xxi have not been implemented.

103. As regards persons with top executive functions, the situation has remained, by and large, the same as described in the Compliance Report. The authorities have stated certain intentions to implement a limited number of recommendations, which have yet to be translated into concrete actions. They intend to publish an anti-corruption handbook which will contain guidance and concrete examples on certain integrity rules; they plan to introduce an e-training module and develop dedicated confidential counselling for PTEFs and aim to take measures to reform the asset declaration system. That said, there has not been any discernible progress in implementing the outstanding recommendations, with the authorities reiterating the submissions made during the Compliance Report. GRECO, consequently, urges the authorities to take tangible measures to address its recommendations and the underlying concerns described in the Evaluation Report.
104. With respect to law enforcement agencies (the Police and Border Guard), the authorities have made certain visible progress to implement the corresponding recommendations. A variety of measures have been introduced to identify corruption risks and corruption-prone areas in the Border Guard, confidential advisers have been appointed in the Police, revised rules of conduct for the Police and the Border Guard are expected to be adopted, the responsibilities of bodies dealing with integrity and oversight of the Police and Border Guard have been clarified as have the responsibilities of bodies involved in the conduct of the disciplinary proceedings in the Police. That notwithstanding, more robust measures should be taken in a number of other areas, such as developing a system for authorising secondary activities, introducing a robust system for the verification of declarations of assets and interests, adopting and implementing the bill on the protection of whistleblowers, and, most importantly, carrying out the appointment, promotion and dismissal of all senior managers in the Police and Border Guards on the basis of objective criteria, proper vetting, and a formal, competitive and transparent process.
105. In view of the above, GRECO concludes that Poland is not in sufficient compliance with the recommendations contained in the Fifth Round Evaluation Report within the meaning of Rule 31 revised bis, paragraph 10 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 revised, paragraph 2 (i) and asks the Head of delegation of Poland to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations i-xvi and xviii-xxi) as soon as possible, however - at the latest - by 30 June 2024.
106. Finally, GRECO invites the authorities of Poland to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make the translation public.