

Adoption: 9 June 2023  
Publication: 17 October 2023

Public  
GrecoRC5(2023)4

# FIFTH EVALUATION ROUND

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

## SECOND COMPLIANCE REPORT

# NETHERLANDS



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

COUNCIL OF EUROPE



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## **I. INTRODUCTION**

1. GRECO's Fifth Evaluation Round deals with "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies".
2. This Second Compliance Report assesses the measures taken by the authorities of the Netherlands to implement the recommendations issued in the Fifth Round Evaluation Report on the Netherlands which was adopted at GRECO's 81<sup>th</sup> Plenary Meeting (3-7 December 2018) and made public on 22 February 2019, following authorisation by the Netherlands ([GrecoEval5Rep\(2018\)2E](#)). The corresponding Compliance Report was adopted by GRECO at its 87<sup>th</sup> Plenary Meeting (22-25 March 2021) and made public on 6 July 2021, following authorisation by the Netherlands ([GrecoRC5\(2021\)6](#)). GRECO noted that further progress was necessary to demonstrate an acceptable level of compliance with the recommendations and asked the Head of Delegation of the Netherlands to provide a report on the progress in implementing the outstanding recommendations.
3. As required by GRECO's Rules of Procedure,<sup>1</sup> the authorities of the Netherlands submitted a Situation Report on measures taken to implement the recommendations. This report was received on 29 December 2022 and served, together with additional information subsequently provided, as a basis for this Second Compliance Report.
4. GRECO selected Norway (with respect to top executive functions in central governments) and Serbia (with respect to law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The rapporteurs appointed were Mr Jens-Oscar NERGÅRD, on behalf of Norway, and Ms Ivana CVETKOVIĆ, on behalf of Serbia. They were assisted by GRECO's Secretariat in drawing up this Second Compliance Report.

## **II. ANALYSIS**

5. GRECO, in its Fifth Round Evaluation Report, addressed sixteen recommendations to the Netherlands. In the Compliance Report, GRECO concluded that none of the sixteen recommendations had been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations ix to xvi had been partly implemented and recommendations i to viii had not been implemented. Compliance with the outstanding recommendations is dealt with below.

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

### **Recommendation i**

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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 bis.

6. *GRECO recommended developing a coordinated strategy for the integrity of persons entrusted with top executive functions, based on analysis of risks, aiming at preventing and managing various forms of conflicts of interest, including through responsive advisory, monitoring and compliance measures.*
7. GRECO recalls that this recommendation was not implemented in the Compliance Report. GRECO regretted that no tangible progress had been achieved on any of the recommendations contained in the Evaluation Report regarding persons with top executive functions (PTEF).
8. The authorities of the Netherlands now report that, in April 2021, the government introduced a self-assessment procedure,<sup>2</sup> whereby prospective members of the government examine possible political and other vulnerabilities prior to their accession to the government. This self-assessment is based on a set of questions which should serve as a tool in identifying potential risks and vulnerabilities during the interview with the government *formateur*. The interview with the government *formateur* is therefore the most important moment and opportunity for candidates for ministers and state secretaries to openly discuss any integrity risks and vulnerabilities, and to undertake any further necessary control measures prior to their appointment. Since its adoption in April 2021, the self-assessment was used for interim appointments of cabinet members as well as at the start of the new cabinet. In January 2022, the Prime Minister informed the House of Representatives about the arrangements which have been made by ministers who joined the new cabinet in the field of ancillary functions and incompatible financial, business and other interests.
9. The authorities also indicate that, on 28 November 2022, the Council of State published its advice on the integrity policy for members of government (see also recommendation ii). In its advice, the Council of State argues for a broader approach, stressing that efforts should be made to develop a more comprehensive integrity system, focusing on training, risk analysis, trusted persons and ethical leadership, and that it is very important that ministers discuss integrity issues and dilemmas regularly, openly and in a safe setting. The authorities add that the Dutch government held meetings with various experts to discuss different aspects of the integrity policy for members of government. Finally, the authorities state that the Minister of the Interior and Kingdom Relations informed the House of Representatives during a parliamentary debate on 10 March 2022 and by means of a parliamentary letter of the intention to further develop a coherent policy on integrity.<sup>3</sup> On 25 April 2023, the Minister of the Interior and Kingdom Relations informed the House of Representatives about the policy on integrity of political office holders at decentralised and national level.<sup>4</sup> The Minister indicated

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<sup>2</sup> [Self-assessment and risk analysis of the integrity of candidate members of government](#), 23 April 2021. This self-assessment procedure has also been included in the Handbook for Ministers and State Secretaries.

<sup>3</sup> See also Parliamentary letter from the Minister of the Interior and Kingdom Relations, sent to parliament on 6 July 2021, available on the website of the Central government:

<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/07/06/kamerbrief-bij-nalevingsverslag-greco-vijfde-evaluatieronde>

<sup>4</sup> The policy on integrity was discussed at a debate on 9 May 2023 with the House of Representatives. See Parliamentary letter from the Minister of the Interior and Kingdom Relations regarding the Integrity Policy of the Public Administration, sent to parliament on 25 April 2023, available on the website of the Central government:

that, with this policy document, she intends to make the integrity policy for officials and administrators more effective and coherent. The document starts by presenting figures on integrity of the public administration, explains how the policy has evolved and describes its purpose and direction as well as responsibilities for its development. At the end, the Minister proposes several measures, such as clearer knowable standards and frameworks, the uniformisation of rules where necessary and a better support to political office holders.

10. GRECO notes that a self-assessment and risk analysis of the integrity of candidates for ministers and state secretaries has been developed, which is a positive development. The process is based on a list of issues to be discussed during the interview with the government *formateur*, prior to taking office, and remains confidential. GRECO also takes note of the integrity policy presented by the Minister of the Interior and Kingdom Relations in April 2023. This 20-page parliamentary letter takes stock of the challenges faced by administrators and officials, including officials employed by the central government, and sets out certain gaps identified and measures intended to be taken. While the letter contains a number of policy intentions for improving the integrity of the public administration in a wide meaning, GRECO would expect information on targeted measures directed at PTEFs to be identified and implemented, as requested by the recommendation. GRECO recalls that a strategy needs to integrate elements such as specific measures geared towards PTEFs, timeline for implementation, indicators of achievement, responsible institutions, with monitoring and compliance measures. Therefore, based on the measures taken so far, the recommendation cannot be regarded as more than partially complied with.
11. GRECO concludes that recommendation i has been partly implemented.

#### **Recommendation ii**

12. *GRECO recommended that a consolidated code of conduct for persons entrusted with top executive functions be developed, complemented with appropriate guidance regarding conflicts of interest and integrity related matters (e.g. gifts, outside activities, third party contacts, lobbying, etc.) and made easily accessible to the public; and (ii) that such a code be coupled with a mechanism of supervision and sanctions.*
13. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO noted that the recommendation on developing a code of conduct for PTEFs went beyond amending the Cabinet Members' Manual, as suggested by the authorities.
14. The authorities now report that a Code of Conduct for members of government was adopted on 16 December 2022 by the Council of Ministers. The Code is publicly available<sup>5</sup> and includes the elements mentioned in the recommendation regarding

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<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2023/04/25/kamerbrief-integriteitsbeleid-openbaar-bestuur/kamerbrief-over-integriteitsbeleid-openbaar-bestuur.pdf>

<sup>5</sup> The Code of Conduct for members of government is available at:

<https://www.rijksoverheid.nl/actueel/nieuws/2022/12/23/gedragscode-integriteitsregels-voor-bewindspersonen>

conflicts of interest and integrity related matters. The authorities also indicate that various experts have been consulted during the process of developing the code of conduct, which should contribute to a sense of ownership for members of government and integrate the code in a culture of integrity.

15. In relation to the second part of the recommendation, the authorities indicate that advice on the establishment of a mechanism of supervision and sanction for the Code of Conduct has been requested from the Advisory Division of the Council of State. In its advice published on 28 November 2022, the Council of State underlined that the effective reinforcement of integrity as a moral value required a much broader set of instruments than enforcement and sanctioning, such as training, risk analysis, trusted persons and ethical leadership. Furthermore, the Council of State stressed that, in the Dutch parliamentary system, the relationship between parliament and government is based on ministerial responsibility and trust principle: a member of government must resign if the majority of parliament no longer has confidence in the member of government; this may include integrity issues. It is thus the Parliament which can sanction members of government as a last resort. The Council of State concluded that, from a constitutional point of view, there is no objection to the establishment of a committee in charge of internal supervision and enforcement. However, if such a committee were to handle complaints from third parties as well, it could not be considered as internal supervision exclusively and should be seen as external supervision. The establishment of a committee or an authority charged with external supervision and enforcement of integrity rules for ministers would be a profound change to the constitutional system. Such an authority could significantly affect the position of ministers, the prime minister and parliament and their mutual relations and would thus require an amendment to the Constitution. According to the Council of State, an authority that could impose sanctions (such as a fine) on ministers would be the most far-reaching variant and in conflict with the Constitution. It would interfere with parliament's autonomy to pass judgment on the functioning and responsibilities of ministers.
16. For the reasons mentioned by the Council of State in its advice, the government considers the implementation of an external or internal monitoring and sanctioning mechanism undesirable. In the authorities' view, the appointment of an independent confidential adviser (see recommendation iii) would contribute to a culture in which integrity issues can be discussed and have a preventive nature.
17. GRECO welcomes the adoption of a Code of Conduct for members of government in December 2022. It notes that the Code has been made public and focuses on integrity issues, such as conflicts of interest, ancillary activities, gifts, contacts with third parties and post-employment restrictions, as required by the recommendation. The Code also gives some guidance and explanation for the different topics covered, although couched in general terms. As such, it appears as a good complement to the Handbook for Ministers and State Secretaries. GRECO notes that the Code only covers members of government, *i.e.* ministers and state secretaries. That being said, GRECO also notes that political assistants are already covered by the Code of Conduct for civil servants (the Code of Conduct for Integrity in the Central Public Administration, GIR), which includes

integrity related rules. GRECO therefore considers that the newly adopted Code taken together with the GIR meets the objective of the recommendation. Consequently, GRECO considers that the first part of the recommendation has been dealt with in a satisfactory manner.

18. As regards part (ii) of the recommendation, GRECO takes note of the position of the government finding the implementation of an external or internal monitoring and sanctioning mechanism in relation to the Code of Conduct undesirable. Nevertheless, it recalls that enforcement implies some form of sanction depending on the breach and its severity. GRECO has found that non-criminal enforceability of the code would have obvious merits, contributing to proportionality between breaches of rules (outside the scope of constitutional accountability), and public sanctions. In the absence of a specific mechanism of supervision and sanctions, part (ii) of the recommendation remains not implemented.
19. GRECO concludes that recommendation ii has been partly implemented.

### **Recommendation iii**

20. *GRECO recommended (i) establishing confidential counselling to persons entrusted with top executive functions on integrity related issues, conflicts of interest etc.; and (ii) raising the awareness of integrity matters among persons entrusted with top executive functions, including through training at regular intervals.*
21. It is recalled that this recommendation was not implemented in the Compliance Report. No targeted step had been taken to meet the recommendation.
22. The authorities now indicate that integrity is a prominent subject in the discussion between the government *formateur* and the candidate member of government prior to his/her appointment. Integrity may also be discussed in the Council of Ministers during the term of office, or at any other moment when a potential matter arises. In addition, a minister can already turn to the ministry's secretary-general, fellow ministers, especially the prime minister, and the secretary of the Council of Ministers for independent guidance and advice.
23. Moreover, the authorities report that, in the parliamentary letter from the Minister of the Interior and Kingdom Relations of 11 July 2022, the government announced that it would appoint a confidential adviser on integrity for members of the government. The confidential adviser is to confidentially advise individual members of government on integrity matters. The government is to determine the exact tasks of the confidential adviser and to appoint the adviser in 2023. The advice of the confidential adviser shall not affect the responsibility and accountability of the individual member of government.
24. With regard to the second part of the recommendation, the authorities refer to the Code of Conduct for members of government, which stipulates that the Council of Ministers is to discuss the Code of Conduct yearly during one of its meetings (Article 5). Before the meeting of the Council of Ministers, an integrity training, focusing on a particular topic

of the Code of Conduct, is also to take place. During these yearly discussions and trainings, members of government are to share dilemmas and learn from each other. The authorities state that the discussion during the meeting of the Council of Ministers would allow the government to update the Code of Conduct where necessary. The government is also considering whether the confidential adviser may play a role in these periodic discussions and trainings.

25. GRECO notes that encouraging measures are underway with a view to establishing confidential counselling and raising the awareness of integrity matters among members of government. These include the introduction of a confidential adviser and yearly integrity trainings for members of government, as well as a yearly meeting of the Council of Ministers devoted to issues covered by the Code of Conduct. In this respect, it would appear important that trainings also be organised for political assistants and that the confidential adviser could be consulted by political assistants. Given that the confidential adviser has not yet been appointed and that the first meeting and training session on integrity issues are yet to take place, GRECO cannot consider this recommendation as being fully implemented.
26. GRECO concludes that recommendation iii has been partly implemented.

#### **Recommendation iv**

27. *GRECO recommended (i) introducing rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental processes and decisions, and (ii) increasing the transparency of contacts and subject matters concerning lobbying of persons who are entrusted with top executive functions.*
28. GRECO recalls that this recommendation was not implemented in the Compliance Report.
29. In connection with the first part of the recommendation, the authorities indicate that the newly adopted Code of Conduct for members of governments includes rules on dealing with third parties, including lobbyists (Article 3.6). Accordingly, a member of government is to pursue transparency in his/her contacts with third parties and to provide insight into his/her agenda arrangements by publishing the agenda on the website of the government.<sup>6</sup> The member of government has to weigh the interests in publishing the agenda against the public interest and, upon request, has to offer openness as to what contacts the member of government has had with third parties in relation to certain files. The member of government is to be aware of his/her private contacts and where these contacts may pose an integrity risk.
30. Furthermore, the authorities report that the government has asked a professor with expertise in the field of integrity and lobbying to conduct a study<sup>7</sup> on the introduction

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<sup>6</sup> [www.rijksoverheid.nl](http://www.rijksoverheid.nl)

<sup>7</sup> The request included the question of what exactly is meant by the term “lobbyists”, how the administrative burden can be kept to a minimum, how experiences from other countries can be taken into account, and how to

of a lobby register. The study has been published in December 2022. On 3 May 2023, the House of Representatives was informed about the study through a parliamentary letter. The Minister of the Interior and Kingdom Relations is currently improving the public agenda of members of government and the cabinet is to pay more attention to the contribution by external parties in the explanatory memorandums to laws and regulations in order to make transparent which contribution has actually influenced the drafting of these laws and regulations, in line with the recommendations made in the above study. The measures taken by the Minister will be evaluated at the beginning of 2024, to see if they have led to sufficient improvement. If this is not the case, a procedure will start in order to create a lobby register, which requires to pass legislation.

31. As for the second part of the recommendation, the authorities indicate that the Dutch government recently amended the rules regarding the public agendas of members of the government. In early January 2022, a memorandum on the public agenda of members of government was discussed and approved. The memorandum includes seven recommendations designed to make the public agenda more user-friendly, including to publish all appointments with external parties (physical, by telephone and online). For every agenda item that is published, a short description of the subject of the relevant appointment is to be added, as well as the attendees and the contact details of the responsible officer. The agenda items on the government's website will also be categorised to make it possible to search by keyword and to search for a member of the government or the entire cabinet.
32. GRECO takes note of the information provided concerning a variety of measures taken to regulate contacts between government officials and third parties, including lobbyists. GRECO also notes that members of government are now to publish all appointments with third parties, unless there are important arguments for not publishing, thus increasing transparency by providing more information on ministers and state secretaries' activities. While these measures go in the right direction, further rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists still remain to be implemented in practice. Therefore, GRECO cannot conclude that this recommendation has been more than partly complied with.
33. GRECO concludes that recommendation iv has been partly implemented.

#### **Recommendation v**

34. *GRECO recommended that a requirement of ad hoc disclosure be introduced in respect of persons entrusted with top executive functions in situations of conflicts between private interests and official functions, when they occur.*
35. GRECO recalls that this recommendation was not implemented in the Compliance Report.

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ensure that a lobby register does not unintentionally restrict citizens from getting in contact with a member of government.



36. The authorities indicate that the requirement of *ad hoc* disclosure was introduced in the Code of Conduct for members of government (Article 3.1), which states that “the introduction of the self-assessment does not rule out the possibility that, during the performance of duties, a relevant change in private interests may nevertheless occur that could give rise to a conflict of interest, other than financial or business interests provided for in principle 3.6. A member of government is responsible for taking management measures, if necessary, and informing the House of Representatives accordingly”. The authorities also underline that the yearly integrity training and discussion on the Code of Conduct in the Council of Ministers (see above) is to contribute to the awareness on the applicable rules, such as the requirement of *ad hoc* disclosure of any conflict of interest when this occurs. As for political assistants, the authorities stress that they are covered by the Code of Conduct for Integrity in the Central Public Administration (GIR), which includes rules related to conflict of interests. More specifically, when a situation of conflict of interest occurs, it should be reported to the employer.
37. GRECO notes that the new Code of Conduct for members of government includes an obligation to report situations of conflicts as they occur (on an *ad hoc* basis), as required by the Evaluation Report (paragraph 78). If a conflict of interest exists, ministers and state secretaries are responsible for taking the necessary measures to remedy the situation and for informing the House of Representatives. Political assistants are equally required to report conflicts of interest when they occur, according to the Code of Conduct for civil servants. Therefore, GRECO considers that the recommendation has been complied with. It nevertheless encourages the authorities to further develop (under recommendation iii) practical advice on how to identify and manage situations of conflict of interest, for instance with real-life examples of situations that may arise.
38. GRECO concludes that recommendation v has been implemented satisfactorily.

#### **Recommendation vi**

39. *GRECO recommended introducing general rules dealing with post-employment restrictions before persons entrusted with top executive functions seek new employment in the private sector and/or are about to enter into such employment after their termination of functions in the public sector.*
40. It is recalled that this recommendation was not implemented in the Compliance Report. No specific information had been provided in this respect.
41. The authorities now report that three post-employment measures for former members of government were announced in November 2021 in a parliamentary letter from the Minister of the Interior and Kingdom Relations.<sup>8</sup> Firstly, the existing ban on lobbying in respect of former members of government was expanded to include adjacent policy areas in which the former member of government has been actively involved while in

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<sup>8</sup> Parliamentary letter on post-employment measures for former members of government (29 November 2021), available at: <https://www.rijksoverheid.nl/documenten/kamerstukken/2021/11/29/kamerbrief-over-integriteitsbeleid-voormalige-bewindspersonen>

office. Previously, the ban on lobbying was limited to the policy area of the former ministry. Active involvement is deemed to have taken place if a member of government has had intensive and frequent official contacts outside his or her own ministry with regard to policy-making in a certain policy area. This may be the case in policy areas that lie at the intersection of several ministers, such as climate, migration, cybersecurity, youth care or the approach to the corona pandemic. The ban on lobbying means that civil servants may not, as part of their official duties, maintain commercial contacts of any kind (face-to-face conversations, but also e-mails, telephone conversations, other forms of telecommunication or membership of a business delegation) with a former member of government for two years after the member of government's resignation. The Secretary General can grant an exemption if necessary, and the Advisory Board (see below) can advise both the Secretary General and the former minister on this. The authorities stress that, with the publication of the parliamentary letter, the expanded ban on lobbying is in effect.

42. Secondly, a revolving door ban was also announced: former members of government will not be allowed to be employed by their former ministry for two years after the end of their term of office. They will also not be allowed to accept paid commercial assignments from their former ministry. There are however exceptions to this rule. The appointment of a former member of government to an advisory board established on the basis of the Advisory Board Framework Act for instance does not fall under the envisaged revolving door ban. The Minister, or in mandate of the Minister the Secretary General, can if necessary grant exemption from the revolving door ban; the Advisory Board can advise both the Secretary General and the former member of government on this.
43. Thirdly, a cooling-off period of two years with compulsory advice is foreseen: former members of government will have to seek advice from an independent committee on the suitability of a new function in the private sector for a period of two years. The Advisory Board on the Legal status of political office holders is to carry out this new advice task and to be equipped in such a way that it is able to advise on cases presented to it at very short notice. It will check, on the basis of the information provided, whether the new position does not lead to (a risk of) a conflict of interests. There are three possible conclusions of the advice: no objection, permissible under further conditions or inadmissible. If the former member of government goes against the advice of the Advisory Board or does not ask for advice at all, the advice of the Advisory Board will be made public. Taking into account the severe impact that publication of the advice might have on a former member of government, publication of the advice is seen as a penalty by the Dutch government.
44. The authorities add that a bill concerning post-employment measures for former members of government was submitted for public consultation in December 2022. The bill states that a former member of government is obliged to ask for advice on new employment if the new function is a management or lobby position in the private and semi-private sector, and the former member of government would be active in the field of the former ministry. The bill also includes a legal basis for the lobby ban and revolving door regulations, as well as the appointment of the independent advisory committee.

The authorities state that the input received from the public consultation is to be used to revise the bill, after which the bill will be submitted to parliament. This should happen in the course of 2023.

45. GRECO notes with satisfaction that several measures regulating post-employment of former members of government have recently been announced by letter of the Minister of the Interior and Kingdom Relations to the Parliament. The scope of the already existing two-year lobbying prohibition for former members of government has been extended to include adjacent policy areas. A revolving door ban is to be introduced for former members of government, who will not be allowed to be employed by their former ministry for two years after the end of their term of office. A two-year cooling off period in which former members of government will have to request advice from an independent committee, is foreseen. While the extension of the prohibition on lobbying announced in the parliamentary letter entered into force with immediate effect, GRECO notes that the revolving door prohibition and the cooling-off period with mandatory advice remain only instituted via a letter of the Minister of the Interior and have to be regulated by law. GRECO calls on the authorities to enshrine these rules in law and to extend the scope of post-employment rules to political assistants, as appropriate. It notes in this regard that the bill concerning post-employment measures for former members of government is to be submitted to parliament in 2023. In the meantime, the recommendation can be deemed to have been partly dealt with.
46. GRECO concludes that recommendation vi has been partly implemented.

#### **Recommendation vii**

47. *GRECO recommended (i) that persons entrusted with top executive functions be obliged to declare their financial interests publicly on a regular basis; ii) considering including financial information on spouses and dependent family members in such declarations (it being understood that the latter information would not necessarily need to be made public) and (iii) that the declarations be subject to an appropriate review mechanism.*
48. It is recalled that this recommendation was not implemented in the Compliance Report.
49. The authorities first recall that it is the responsibility of the government *formateur* to systematically discuss the financial and business interests with the candidate/ future member of government. If during the interview with the *formateur* possible incompatible financial and/or business interests are discovered, it is the responsibility of the candidate to make an adequate arrangement in time. The relevant financial and business interests of the members of government and how to deal with them are mentioned in the letter that the Prime Minister sends to the House of Representatives shortly after the new government takes office. In addition, on 15 December 2021, the Prime Minister informed the House of Representatives about a new requirement for ministers and state secretaries to report during their mandate any new circumstances

giving rise to financial or business interests that could lead to a conflict of interest.<sup>9</sup> At the start of the new government in January 2022, the members of government were informed about this new requirement, which has been included in the Code of Conduct for members of government (Article 3.5).

50. In relation to part (ii) of the recommendation, the authorities stress that financial and business interests of a partner, adult children and other family members are generally not considered relevant, as in today's society people are considered as independent individuals, who are deemed to be economically independent. It is therefore not appropriate to require the partner or relatives of a candidate to make far-reaching financial or business changes in their lives in order to make the candidate's candidacy possible. It is also undesirable that the office of member of the government would be unattainable for an important group of suitable candidates solely because of the social position of partner or relatives. However, financial and business interests of minor children and the partner in case of a marriage in community of property are considered relevant. This demarcation does not alter the fact that ministers or state secretaries are personally responsible during their term of office for not participating in any decision-making on matters that involve their partner, children, other family members, business relations, interests, former interests or previous positions, insofar as participation could run counter to the due and proper performance of their duties.
51. GRECO notes that a requirement to report new financial interests that could lead to a conflict of interest during the time in office has been introduced in the Code of Conduct for members of government, which is a positive development. However, GRECO observes that overall, the situation remains unchanged since the Evaluation report, as there are still no regular financial declarations by cabinet members during their mandate enshrined into law and the major responsibility is still placed on members of the government themselves, who are expected to identify problematic interests. This demonstrates that there has been no tangible progress, neither concerning the introduction of legally binding reporting obligations for all categories of PTEFs, nor in respect of transparency for the public.
52. With regard to spouses and dependent family members, GRECO notes that the position and arguments of the authorities do not appear to deviate from those put forward when the Evaluation Report was adopted (paragraph 98). GRECO recalls its established position that careful consideration of any matter requires that the reflection process is sufficiently in-depth, involves the pertinent stakeholders and is fully documented. GRECO therefore encourages the Netherlands to resume the discussion on the issue, as advocated in the Evaluation Report (paragraph 100) and in line with its established position. Finally, in respect of part (iii) of the recommendation, GRECO regrets that no measures have been reported to ensure substantive checking of financial declarations.
53. In view of the foregoing, GRECO concludes that recommendation vii remains not implemented.

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<sup>9</sup> Parliamentary letter from the Prime Minister, sent to parliament on 15 December 2021, available at: <https://open.overheid.nl/repository/ronl-f00d2b33-619c-4787-b7fb-2c7ff726b789/1/pdf/kamerbrief-uitvoering-motie-sneller.pdf>

## **Recommendation viii**

54. *GRECO recommended ensuring that the procedures allowing for investigation and prosecution of abuse of office (including passive bribery) do not hamper the criminal justice process in respect of ministers/state secretaries suspected of having committed corruption related offences.*
55. It is recalled that this recommendation was not implemented in the Compliance Report as the authorities did not report any specific measures or developments relevant to its implementation.
56. The authorities now report that the Committee for the Revision of the legislation on offences committed while in office by members of parliament and members of government, which was established to advise on the fundamental revision of the legislation for the prosecution and trial of the members of the House of Parliament and ministers and state secretaries for offences committed while in office, included the recommendation by GRECO in its advice. The Committee presented its report to the Minister of Justice and Security and the Minister of the Interior and Kingdom Relations in July 2021. An outline letter responding to this advice will shortly be discussed in the Council of Ministers.
57. GRECO takes note of the ongoing initiative to revise the legislation for the prosecution and trial of ministers and state secretaries for offences committed while in office, in light of the above recommendation. GRECO is looking forward to receiving more specific information on the revision process and the implementation of the recommendation.
58. In the meantime, GRECO concludes that recommendation viii remains not implemented.

*Preventing corruption and promoting integrity in law enforcement agencies*

## **Recommendation ix**

59. *GRECO recommended (i) that the Theme pages of the Professional Code of the National Police (NPN) be further developed with guidance, examples and lessons learned, offering adequate guidance on conflicts of interest and other integrity related situations (e.g. gifts, third party contacts, accessory activities, handling of confidential information) and that a similar instrument be established for the Royal Marechaussee (KMar); and (ii) to ensure supervision and enforcement of these instruments.*
60. GRECO recalls that this recommendation was partly implemented in the Compliance Report. Part (i) was implemented satisfactorily, and part (ii) was partly implemented. For part (i), GRECO noted that the Theme pages of the Professional Code had been revised in order to provide concrete examples inspired from the case law, regarding conflict of interest related matters such as gifts, the handling of confidential information, financial interests, contacts with suppliers and third parties. GRECO also noted the adoption of the Rules of Conduct by the KMar in 2019. As to part (ii) of the

recommendation, GRECO was satisfied that situations of breaches are reported directly to the KMar's Safety and Integrity Department for further follow-up or advice and, where necessary, investigations into possible breaches can be carried out. However, information was lacking on how supervision and enforcement of the Professional Code as supplemented by the Theme pages on integrity matters were ensured in the NPN.

61. The Netherlands authorities submit that the Theme pages of the Professional Code of the NPN continue to be updated annually, as well as on an *ad hoc* basis, based on relevant new legislation or case law, by advisers on Safety, Integrity and Complaints (*Veiligheid, Integriteit en Klachten*; VIK) in collaboration with the prevention coordinators. The Intranet page for Integrity of the NPN contains a link to the Theme pages and to other relevant documents. Currently, the NPN is developing a new Intranet page in which the themes 'integrity' and 'VIK' are to be more easily accessed.
62. In respect of part (ii) of the recommendation, the authorities indicate that supervisors continuously check whether actions by NPN-officers are in accordance with the Professional Code and the Theme pages and can discuss this with the officers concerned, in the course of the daily work. Every police team is coordinated by an operational coordinator, who supervises the work of the police officers, and is led by operational experts, who are coordinating and evaluating the day-to-day operations. Furthermore, the core values as outlined in the Professional Code are part of the "Result & Development" reviews that take place every year between the team coordinators (i.e. the operational experts) and the individual team members.
63. The authorities signal that the NPN has protocols in place and personnel who can be asked for help (like the professional 'confidant' and social workers), but also departments like VIK, where all employees can get advice or report integrity violations. Additionally, in June 2021, an expert on integrity was appointed. The role of this expert, who is a member of team VIK, is to further develop the integrity policy and practice of the NPN, to translate scientific insights into practical measures and to contribute to the development of preventive actions to avoid integrity violations. Finally, the authorities report that an internal investigation can be commissioned by the appointed authority, usually the chief of police, when there is a suspicion that a rule or a core value has been violated. This suspicion can be raised by a report from any employee (e.g. to VIK) or can arise from other ongoing investigations. Internal investigations are carried out by the VIK-departments.
64. The authorities stress that, while the Professional Code as such is not enforced, it is used as an underlying document to indicate which actions of NPN-officers constitute a breach of their professional duties (i.e., which value – as incorporated into the Professional Code and explained in the Themes pages – has not been upheld, if such a breach has been identified in the course of an internal investigation). Furthermore, the Professional Code starts with the oath that every police officer pledges at the start of his/her career. The oath is also laid down in a regulation (*Besluit algemene rechtspositie politie*), which is enforced. In the authorities' view, violation of the Professional Code can thus have legal consequences.

65. As to the KMar, the authorities reiterate the information submitted in the previous report, namely that the Defence Rules of Conduct came into force in 2019 and that supervision and enforcement of compliance with the Defence Rules of Conduct are primarily the responsibility of the Internal Integrity Staff Unit of the KMar. When a violation of the Defence Code of Conduct and/or the Defence Rules of Conduct is suspected, the Internal Integrity Staff Unit investigates the matter. The authorities also submit that the Defence Rules of Conduct have become a fixed part of most presentations, training courses and workshops on integrity.
66. GRECO welcomes the appointment in June 2021 of an expert on integrity, responsible for mainstreaming integrity and developing preventive actions to avoid integrity violations in the National Police (NPN). While checking compliance with integrity rules rests firstly with supervisors of NPN-officers, GRECO notes that an internal investigation can be commissioned in case there is a suspicion that a rule or a core value - as incorporated into the Professional Code and explained in the Themes pages - has been violated. Overall, GRECO therefore considers that supervision and enforcement of the Professional Code, as supplemented by the Theme pages on integrity matters, is ensured, in line with the recommendation. As for the Royal Marechaussee (KMar), GRECO points that it already expressed its satisfaction with the mechanisms of supervision and enforcement of the Defence Rules of Conduct in its previous report.
67. GRECO concludes that recommendation ix has been implemented satisfactorily.

#### **Recommendation x**

68. *GRECO recommended that the in-service training on ethics and integrity for the National Police (NPN) and the Royal Marechaussee (KMar) staff, including managers, be enhanced by developing at national level further regular training programmes as a support and complement to the existing decentralised training in the units.*
69. It is recalled that in the Compliance Report, this recommendation was partly implemented. GRECO noted that a number of new initiatives had been taken to put more emphasis on integrity in initial and in-service training programmes. However, GRECO stressed that it would be advisable that the regular in-service training programmes for the NPN and KMar also provide for a number of mandatory training days and that the initiatives being developed result in more structure and coordination at the national level.
70. The Netherlands authorities indicate that initial training on integrity in the NPN is a mandatory part of the curriculum during the two-year police training programme (which is a national programme), through a variety of methods (e-learning course with reference to the Theme pages, conversations between students under supervision about moral or integrity dilemma's, film of the theatre play RAW on work and life in the NPN etc.). In addition, it is currently reviewed whether integrity may also become a mandatory part of other educational programmes, such as the leadership programme, by examining the needs of employees and management in this respect. Further to this examination, it is to be decided if and how educational programmes can be further

amended in 2023, for instance with the development of a masterclass on integrity for management. Police officers can either be explicitly trained on what integrity means or integrity can be taught implicitly through learning how to act in specific situations. Attention is also paid to the question of how to deal with confidential information, for which a manual is available on the Intranet. While an integrity masterclass for managers is being developed at national level, the authorities indicate that there are already courses for managers within the NPN which pay attention to integrity, notably the Master Tactical Management, which among other things deals with the professional identity and may be considered as the regular training to become a manager, and the Master of Science in Policing. Moreover, the authorities refer to different awareness training sessions, campaigns and in-service trainings given by VIK, such as the campaign 'Always Alert' which informs police officers on how to treat (sensitive) information, the 'value map' for good police work created in December 2021, or the organisation of 'ethics tables'.

71. As regards the KMar, the authorities mention several internal training programmes focusing on integrity and/or moral dilemmas. A continuous learning process has been created and includes a mandatory initial training programme as well as a mandatory training for senior employees (sergeant majors, twelve two-hour lessons) and technical educational programmes for future team leaders/platoon commanders (two four-hour lessons, given once per year to approximately 30-40 students). 11 sessions of the training programme for senior employees took place in 2022 and 14 are planned in 2023, with respectively 128 and 196 students attending the training. The Royal Netherlands Marechaussee National Centre for Training and Expertise has six full-time employees who teach the relevant courses on professional integrity. The Internal Integrity Staff Unit also gives a variety of presentations/training courses to a diverse target audience to encourage integrity (approximately 60 per year). The authorities also stress that, on 20 March 2023, the Commander of the KMar and his Chief of Staff decided that every KMar employee is required to take a refresher training course on integrity every two years. Since managers have a crucial position and serve as role models, priority is to be given to them. Furthermore, the Ministry of Defence offers seven different training courses on social safety and integrity to all Defence employees, including KMar personnel. In three of these courses, managers are the main target group. These trainings were booked five times per request of different brigades over the period January - June 2022. Finally, the KMar has developed an e-learning course about undermining and the Open Defence Academy offers three online modules that focus on integrity and are accessible to all employees.
72. GRECO notes with satisfaction that training activities on integrity have regularly taken place in the NPN at all levels. GRECO believes that the current review of educational programmes represents a good opportunity to develop a mandatory course on integrity, particularly in the leadership programme. GRECO also notes that numerous initiatives have been developed within the KMar and that a continuous learning process dealing with integrity issues is in place, including for managers. Therefore, GRECO considers that the requirements of this recommendation have been fully met.
73. GRECO concludes that recommendation x has been implemented satisfactorily.



## Recommendation xi

74. *GRECO recommended that adequate measures and appropriate resources be allocated in order to ensure that within the National Police (NPN) vetting and screening of staff takes place at regular intervals during their entire service.*
75. It is recalled that in the Compliance Report, GRECO considered this recommendation partly implemented. GRECO welcomed that a draft legislation had been prepared by the Government with a view to ensuring the regular vetting of police officers and external officials working for the NPN all along their careers. However, GRECO noted that no date had been fixed for the entry into force of the relevant legislation.
76. The Netherlands authorities now report that, on 5 April 2022, the Dutch Data Protection Authority published an advice on the draft legislation on screening of police officers and external officials working for the NPN all along their careers. After reviewing and incorporating the results of the internet consultation and the advice of the Dutch Data Protection Authority, the draft legislation was presented to the Council of State for review. On 31 August 2022, the Council of State advised to implement the proposal, without any further amendments. The legislation (“Screening of Police Officers and External Police Staff Decree”) entered into force on 1 January 2023. According to the decree, screening takes place before starting at the NPN and at regular intervals thereafter. There are different types of screening, dependent upon the risks of the function in question: almost all employees of the NPN are required to have some sort of screening, the lowest level being a certificate of good conduct, which needs to be renewed every two years; external employees have to undergo a trustworthiness assessment every five to eight years depending on the risk of the work, or as soon as a new circumstance arises; and for employees whose work may present an increased risk to the integrity of the police, a trustworthiness assessment (at least every five years) and an environmental investigation are performed. For certain functions that have been designated as confidential functions, there is a separate safety/security investigation which is not performed by the NPN, but by the General Intelligence and Security Service, every five years. The authorities report that the new rules have been disseminated and that employees of the NPN who perform the screening have been trained. In 2023, approximately 2500 screenings have been performed and finalised thus far.
77. GRECO welcomes that the draft legislation mentioned in the Compliance Report entered into force in January 2023. GRECO is satisfied that the screening of NPN staff takes place at regular intervals during their entire service, in accordance with the recommendation. As adequate measures and resources are now in place, the recommendation is fully complied with.
78. GRECO concludes that recommendation xi has been implemented satisfactorily.

## Recommendation xii

79. *GRECO recommended that the procedures in situations where gifts and advantages of a certain level have been offered/accepted be reinforced, in particular by introducing a standard format for the reporting/declaration of gifts/advantages and such offers, that these be registered and subject to supervision.*
80. GRECO recalls that this recommendation was considered partly implemented in the Compliance Report. GRECO noted that the information provided by the authorities did not show that the rules on gifts had been reinforced in the NPN as per the recommendation. As for the KMar, GRECO considered it a positive step that gifts were covered by the new Defence Rules of Conduct but noted that there did not appear to be a register of gifts or similar system, which would make appropriate supervision possible.
81. The authorities reiterate that pursuant to the Police Act, the Civil Servants Act applies with regard to the acceptance of gifts (Article 8, paragraph 1, sub e). The Act is further elaborated upon in the policy rule on handling gifts (November 2014). The policy rule stipulates that an NPN-officer is not permitted to accept or request gifts exceeding €50 or offered in the form of money or a discount, regardless of the value. Gifts cannot be solicited by NPN-officers. A gift may only be accepted if the value is less than €50 and the supervisor has granted permission to accept the gift. When reporting to the manager, the officer should indicate the manner in which the gift was offered and the estimated value. The employer must immediately deny or approve acceptance of the gift. The policy rule on handling gifts is published on the Intranet-page of the NPN and applies to all NPN-officers, including supervisors/management. The theme page on gifts was updated accordingly in May 2023.
82. As for the KMar, the authorities refer to the Defence Integrity Policy, including the Defence Rules of Conduct, adopted in December 2019, which contain rules on accepting gifts and advantages, illustrated by various practical examples. A gift/advantage needs to meet certain conditions before it can be accepted. Employees have to answer a set of questions to assess whether a gift/advantage can be accepted. Whenever a gift/advantage has been accepted, the employee's supervisor must be informed. The supervisor will then register the accepted gift/advantage. Departments that frequently deal with gifts are advised to draw up standard procedures on how to handle gifts, in consultation with the integrity adviser. The authorities submit that the Defence Integrity Policy focuses on encouraging integrity in the first place instead of introducing centrally and sometimes time-consuming control measures. Furthermore, integrity advisers are in place to advise managers and other Defence/KMar personnel regarding gifts and advantages to prevent integrity breaches on this subject.
83. The authorities further explain that, if a supervisor suspects that the accepted gift/advantage violates the Defence Rules of Conduct, the responsible commander must report the matter to the KMar's Department of Internal Investigations. There is no official format according to which the commander must report this possible violation. The KMar believes that the willingness to report a possible violation will be higher if the bureaucratic element associated with reporting a possible violation is kept to a

minimum. The Department of Internal Investigations registers all such reports and can investigate them. This information is saved for fifteen years in line with Dutch administrative law. On average, the Department of Internal Investigations receives approximately one report per year on this subject. When deciding whether to investigate a report, the department follows the Defence Code of Conduct, the Defence Rules of Conduct and general criminal law.

84. GRECO takes note of the information provided by the authorities, which mostly describes the information already outlined in the Evaluation Report (paragraphs 204-206), as well as in the Compliance Report. Hence, there seems to have been no further significant developments since then. In particular, it appears that, in the NPN, no standard procedure to report or register accepted gifts has been introduced. As regards the KMar, GRECO takes note of the position of the authorities, who oppose any formal system to report and centrally register accepted gifts or to report a violation of the rules on gifts. However, GRECO reiterates that some formalised procedure is necessary to keep track of gifts for the recommendation to be fully implemented.
85. GRECO concludes that recommendation xii remains partly implemented.

#### **Recommendation xiii**

86. *GRECO recommended enhancing control measures in respect of access to and use of confidential information, in order to prevent unauthorised access to law enforcement registers and leaking of information.*
87. GRECO recalls that this recommendation was partly implemented in the Compliance Report. It noted that measures were underway, in particular in relation to the use of and access to confidential information via mobile information device, but that these measures had not yet been fully put in place. The NPN had taken some initiatives to reinforce its authorisation protocols to access confidential police information, including a logging data collector and a system to track down atypical access to information, while electronic controls had been further developed in the KMar.
88. The authorities reiterate that the NPN has taken various measures to ensure proper security access to police systems. This includes the Identify Access Model (IAM), on the basis of which authorisations are automatically granted, the authorisation tool for supervisors (ATL), an interface on IAM with which supervisors can grant additional authorisations to an employee for specific activities, and the Security Operations Centre (SOC), which logs most important systems and monitors their use to detect unusual behaviour. The authorities signal that the pilot project “Atypical Signalling” referred to in the Compliance Report came to an end in the second quarter of 2021 and that it has been decided to not roll out this pilot nationally. Instead, awareness raising efforts to prevent data abuse are to be developed before monitoring can be deployed nationally. This is to be done in close cooperation with a new team that has been initiated specifically to focus on anti-corruption. In addition, a guidance for accessing police systems (*handreiking voor het raadplegen voor politiestystemen*) is available for NPN-employees when they are unsure whether they may access a certain system or certain

information. The guidance is meant to assist NPN-employees in determining whether access to certain information is legitimate and contains links to the Professional Code and relevant Theme pages. Furthermore, NPN-employees are urged to discuss dilemmas with their supervisor, *VIK*, confidential advisers etc. NPN-employees are also provided with guidance on how to prudently handle information (both digital and physical information), specifically during transportation, storage and when destroying such information.

89. The KMar has also taken various measures to ensure proper security access to its systems already mentioned in the previous report (Data strategy, HitNoHit application,<sup>10</sup> basic roster programme OPRS, Logging as a Service (LaaS) environment). Additionally, the KMar has set up an authorisation management for all of its operational systems in accordance with Defence regulations.<sup>11</sup> The authorities also indicate that the business case for further follow-up and technical adjustments of the systems, which started at the beginning of 2020, has led to the ‘Monitoring for Logging’ project. The main goal of this project is to develop functionality that will make it possible for the organisation to monitor and control the logging of digital activity in order to comply with legislation and regulations. Digital activity on information systems is currently being logged, but automated monitoring and control of the logging data is not yet in place. The project proposal was approved on 19 October 2022 and the Defence IT organisation, the Joint Information Management Command, is in the process of making an impact analysis to assess which adjustments to the current system need to be implemented. In addition, the working group for handling police data responsibly, lawfully and professionally, which was set up in the summer of 2020, presented its advice to the strategic command of the KMar in May 2022. Actions based on this advice, such as a project to implement monitoring, have been initiated.
90. The authorities report that the Department of Internal Investigations can investigate the matter whenever there is reason to believe that data is being used in a non-professional way. The average number of such investigations ranges from five to fifteen per year. The use of algorithms to identify atypical use of data systems has not yet led to the initiation of any investigations, as this method is still being developed. This way of generating red flags to indicate atypical use of data, which may lead to investigations, will need to be approved by the employee representation body once it has been fully developed.
91. GRECO welcomes that several measures to control the access to and use of confidential information have been put in place in the NPN and the KMar. As for the NPN, various measures (IAM, ATL and SOC) apply to the relevant systems, allowing for the authorisation, logging and monitoring of information systems. In the KMar, an authorisation management has been set up and the ‘Monitoring for Logging’ project has

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<sup>10</sup> The HitNoHit training application was launched in November 2022 and was made available to students of the Royal Netherlands Marechaussee National Centre for Training and Expertise.

<sup>11</sup> This means that i) Authorisations for information systems are granted on the basis of roles, and are never linked to individual accounts; ii) Authorisations are assigned KMar-wide to KMar-wide functional areas, such as Border Control and Surveillance and Security; iii) Authorisations are checked every quarter by checking personnel inflow, throughflow and outflow records against the actual situation in operational systems; iv) Special authorisations for information systems are granted by a specially designated application owner. The granting of authorisations is automated and performed by a designated, specialised team.

been developed. While a number of measures, including awareness raising measures, are still to be rolled out in both the NPN and the KMar in 2023 and beyond, GRECO is satisfied that enhanced control measures are in place, as required by the recommendation.

92. GRECO concludes that recommendation xiii has been implemented satisfactorily.

**Recommendation xiv**

93. *GRECO recommended that a study be conducted concerning risks of conflicts of interest in relation to post-employment and other activities of police officers (including the top level), after they leave the police service, with a view to considering appropriate regulations in this area.*
94. It is recalled that in the Compliance Report, this recommendation was partly implemented. GRECO noted that a study had been commissioned by the Ministry of Security and Justice's Research and Documentation Centre (WODC) and was due to be completed by Summer 2021.
95. The Netherlands authorities report that the study carried out by the University of Utrecht started in September 2020 and was finalised and published on the website of the WODC on 31 August 2021.<sup>12</sup> The research looked at possible conflicts of interest that can arise after the end of the employment of employees of the NPN and the KMar and at possible preventive measures, sanctions and experiences in this context. The research concluded that no relevant documentation regarding conflicts of interest in relation to post-employment of police officers from the NPN and KMar was found and that little is therefore known about the meaning and nature of such conflicts. The researchers found that it was difficult to create a specific policy on this topic, as the possibilities for sanctions are limited and a conflict may arise due to circumstances that are unknown to the former employer. Finally, the research found that the NPN and KMar take many measures concerning possible conflicts of interest during employment. The study was also shared with the Dutch Parliament together with the response by the Minister of Justice and Security and the Minister of Defence. In this response, the ministers indicated that the recommendations contained in the study would be used to further professionalise both the NPN and the KMar.
96. GRECO notes with satisfaction that the study concerning risks of conflicts of interest in relation to post-employment of employees of the NPN and KMar has been completed, in accordance with the recommendation. The study has been made public and was also presented to the Dutch Parliament. The authorities may wish to keep GRECO informed of further steps taken to implement the recommendations contained in the study.
97. GRECO concludes that recommendation xiv has been implemented satisfactorily.

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<sup>12</sup> "In service of the public interest. An explorative study on post-employment conflicts of interest among former Dutch National Police and Royal Dutch Marechaussee personnel." An English summary of the report is available on the website of the WODC at: <https://repository.wodc.nl/handle/20.500.12832/3089>.

## Recommendation xv

98. *GRECO recommended (i) enhancing the current regime for declarations by introducing an obligation in respect of the top management of the National Police (NPN) and the Royal Marechaussee (KMar) to declare financial interests in accordance with a predefined format, when taking up their duties and at regular interval thereafter, (ii) to designate posts which are vulnerable to conflicts of interest, and (iii) to provide for suitable oversight.*
99. GRECO recalls that this recommendation was partly implemented in the Compliance Report. It considered that progress was underway but that it had yet to materialise. In the NPN, a Financial Interests Policy Rule was being drafted with a view to specifying which officials have a duty to report financial interests, what is meant by financial interests and how these interests are to be reported. Insofar as supervision is concerned, the function of Financial Compliance Officer had been established. As for the KMar, a draft memorandum giving further details for registering financial interests was adopted in 2018 but was yet to enter into force formally.
100. The Netherlands authorities report that, insofar as the NPN is concerned, the Financial Interests Policy Rule entered into force on 29 June 2022. This Policy Rule further elaborates the rules laid down in the Civil Servants Act (2017) and Article 55b of the General Legal Status of the Police Decree, which includes a prohibition on having financial interests, owning securities or conducting securities transaction that affect the proper performance of the function of the officer or the proper function of the public service. According to Article 1(g) of the Policy Rule, financial interests include securities, rights of claim, real estate, building land, financial holdings in companies other than share ownership, as well as having negative financial interests such as debts from mortgage receivables. The Policy Rule also indicates which officials have a duty to report their financial interests and how such interests must be reported. Article 6 stipulates that reports must be made in writing (in a form which is attached to the Policy Rule) to the compliance officer. Compliance officers must in turn report to the chief of police. Similarly, the chief of police reports to the Minister of Justice and Security. Reports must be made when taking up duties and as soon as a circumstance changes. Officials with designated functions are also required to report annually to the Compliance officer. The Financial Compliance Officer (FCO) of the NPN - a function created in December 2020 - supervises this reporting scheme. The FCO receives, registers and archives all received reports and can advise management in relation to the execution and enforcement of the policy rule. The FCO also reports annually on the financial reports (Article 10 of the Policy Rule). If the FCO has reasons to suspect integrity violations, s/he should report to the management.
101. Following the entry into force of the Policy Rule, the new rules were disseminated to relevant NPN officers in mid-2022. A general remark was published on the Intranet, explaining that the amended Financial Interests Policy Rule had entered into force, the key changes, where to find it and reference to an e-mail-address specifically created for queries that relate to the Policy Rule. A specific targeted audience was individually informed, with a personal e-mail about the actions required and reference to a contact

for queries. Finally, an informative flyer has been produced explaining the Policy Rule while using practical examples in accessible language.

102. The authorities add that top managers were requested to provide all financial reports in the second half of 2022, according to a format that was approved by the NPN external accountant. In 2022, the FCO concluded that there were no irregularities found in the reports received in the period 2021-2022.
103. As for the KMar, the authorities state that Article 126c(4) of the General Military Personnel Regulations and Article 70c(4) of the Ministry of Defence Civilian Employees Regulations stipulate that it is forbidden for military personnel and civilian employees to have financial interests (or securities/deal in security transactions) such that the proper performance of their jobs or the proper functioning of the public service would not be reasonably ensured. Furthermore, Article 126c(1) of the General Military Personnel Regulations and Article 70c(1) of the Ministry of Defence Civilian Employees Regulations state that the Minister of Defence designates the military personnel and civil servants who perform work that involves, in particular, the risk of a financial conflict of interest. This includes all positions for which a security screening (*VGB*) is part of the hiring procedure. It also follows from the aforementioned article that all designated military personnel shall report financial interests (and possession of/transactions in securities) that may affect the interests of the KMar, insofar as these interests are related to the performance of the duties of the military personnel. The report has to be made to a designated officer, this officer being the head of the unit in question. Such reports are registered by the Minister of Defence.<sup>13</sup> The Ministry of Defence is working on the implementation of regulations on registering financial interests to enforce these provisions.
104. GRECO notes that, concerning the NPN, the Financial Interests Policy Rule entered into force on 29 June 2022. The Policy Rule indicates which officials have a duty to report their financial interests and a specific form has been developed in this regard. Reports have to be made when taking up duties and annually thereafter, as well as immediately in case of new circumstances that could give rise to a conflict of interest. A Financial Compliance Officer has also been established to supervise the reporting process. Finally, several measures have been taken to raise awareness about the new rules in place. GRECO therefore considers that the recommendation has been implemented satisfactorily as far as the NPN is concerned.
105. As regards the KMar, GRECO notes that all employees for which a security screening (*VGB*) is part of the hiring procedure are to report financial interests that may affect the interests of the KMar. However, there is still no procedure to centrally register financial interests. GRECO therefore considers that further measures should be taken in order to fully implement the recommendation.
106. GRECO concludes that recommendation xv remains partly implemented.

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<sup>13</sup> Article 126c(2) of the General Military Personnel Regulations and Article 70c(2) of the Ministry of Defence Civilian Employees Regulations.

## Recommendation xvi

107. *GRECO recommended (i) establishing a requirement for law enforcement officials to report corruption related misconduct within the service; and (ii) adapting the protection of whistleblowers in that respect.*
108. GRECO recalls that this recommendation was partly implemented in the Compliance Report. It noted that the authorities had taken steps to transpose the EU Directive on Whistleblowers. Regarding the NPN, GRECO observed that the Theme pages of the Professional code of the NPN simply advised employees to discuss misconduct with the colleague concerned and, where unsuccessful, with their management: this felt short of a requirement on NPN staff to report misconduct as per the recommendation. In addition, while there was no duty to report suspicions of integrity breaches in the KMar, GRECO was satisfied that a framework was in place to facilitate the reporting of breaches and that there were guarantees of confidentiality as a way of protecting whistleblowers but also protection against any form of retaliation, which complied with the expectations of this recommendation.
109. The authorities now report that the Whistleblower Authority Act (now Whistleblowers Protection Act) has been amended to implement Directive (EU) 2019/1937 of the European Parliament and the Council of 23 October 2019 on the protection of persons who report breaches of Union law. The law to implement the EU Directive on Whistleblower was published in the Dutch Official Gazette on 3 February 2023 and entered into force on 18 February 2023
110. The authorities recall that civil servants are obliged to report suspected criminal offences, including corruption offences, if they come across such acts in the performance of their duties (Article 162(1) of the Dutch Code of Criminal Procedure). Additionally, NPN-officers can report suspected wrongdoings to their direct supervisor, a higher supervisor, a designated part of the organisation or a confidential adviser on integrity (Article 55d(1) of the Decision on the general legal position of the police). When a report has been made in good faith, no decision or action with negative consequences for the reporter is to be made either during or after the procedure following the report. In this respect, the protection offered by the Whistleblower Authority Act is to apply.
111. Furthermore, if it cannot reasonably be required from the NPN-officer to internally report suspected wrongdoings, s/he can directly report to the Advisory Department of the Whistleblower Authority or any other competent authority. This is reiterated in the Professional Code of the NPN, which stipulates that suspected wrongdoings can first be reported to the direct supervisor and also refers to other available options, including *VIK*, the social workers of the NPN, the works council, the national reporting centre for wrongdoings or the Whistleblower Authority. Moreover, a directory guide (*lokettenwijzer*) was created on 24 September 2021 and published on the Intranet-page of the NPN. This directory guide provides a schematic overview of all different persons or organisations where NPN-officers can report (suspected) wrongdoings or turn to for advice, with direct links to the websites or webpages of the relevant persons or organisations containing information on the protection of reporters. It is expected that



supervisors will also refer NPN-officers to the directory guide, if required. This information can also be found on the Intranet of the NPN.

112. As regards the KMar, the authorities report that the protection of whistleblowers is regulated in the General Military Service Regulations (for military personnel) and the Civil Service Regulations (for civil personnel). Procedures on integrity breaches, including breaches falling under the EU Directive, have also been elaborated in the revised Defence Integrity Policy of 7 July 2022, which clarifies and simplifies the process of reporting (possible) integrity breaches. This resulted in a central system that unified several different existing reporting procedures. The protection of whistleblowers is also included in the guidelines of the secretary general of the Ministry of Defence (SG-A989) on procedures of internal investigation, which protect all personnel reporting any (possible) integrity breach in good faith. The authorities add that employees of the KMar are informed about the procedure of reporting possible integrity violations through several ways: the information is mentioned prominently on all the main intranet pages of all branches of the armed forces, as well as on the public internet page of the Ministry of Defence. The 'My Defence' application provides the user with the same information. Finally, confidential advisers and integrity advisers include this information during training courses or upon request.
113. GRECO takes note of the information provided by the authorities according to which the EU Directive on Whistleblower has been transposed in domestic law. In the NPN, steps have been taken to encourage the reporting of suspected wrongdoings by NPN-officers, internally as well as externally and in confidence. In particular, a directory guide was created in September 2021 to provide an overview of all persons or organisations to which NPN-officers can report (suspected) wrongdoings or turn to for advice. GRECO also notes that a person who reports wrongdoings is protected against retaliation, which complies with the recommendation. As for the KMar, GRECO welcomes that the revised Defence Integrity Policy has clarified and unified the different existing reporting procedures of integrity breaches. GRECO recalls that the recommendation was already considered implemented regarding the KMar in its previous report.
114. For these reasons, GRECO concludes that recommendation xvi has been implemented satisfactorily.

### **III. CONCLUSIONS**

115. **In view of the foregoing, GRECO concludes that the Netherlands have satisfactorily implemented seven of the sixteen recommendations contained in the Fifth Round Evaluation Report.** Seven recommendations have been partly implemented and two have not been implemented.
116. More specifically, recommendations v, ix-xi, xiii, xiv and xvi have been implemented satisfactorily, recommendations i-iv, vi, xii and xv have been partly implemented and recommendations vii and viii have not been implemented.

117. With respect to top executive functions, some steps have been taken to implement GRECO's recommendations. A Code of Conduct for members of government has been adopted, but with no specific mechanism of supervision and sanctions, and a policy on integrity of political office holders has been presented. A requirement of *ad hoc* disclosure of situations of conflicts of interest has also been introduced. Further measures are underway to establish confidential counselling, to raise awareness of integrity matters among members of government and to strengthen rules on post-employment restrictions and lobbying. However, some efforts are still needed, such as introducing a system of regular financial declarations by cabinet members during their mandate.
118. Regarding law enforcement agencies, six out of eight recommendations have been implemented satisfactorily. The appointment of an expert on integrity in the NPN is welcomed. GRECO is also satisfied that supervision and enforcement of the Professional Code, as supplemented by the Theme pages on integrity matters, is ensured in the NPN and that reporting procedures of integrity breaches are provided in the KMar and the NPN. The study concerning risks of conflicts of interest in relation to post-employment of employees of the NPN and KMar has been completed. Several measures to control the access to and use of confidential information have been put in place and the legislation providing for the regular screening of police officers and external officials working for the NPN entered into force. GRECO also appreciates the measures taken to raise awareness through training activities of the police staff on integrity-related matters. Lastly, measures to report and centrally register accepted gifts, as well as to report financial interests, need to be further considered by the authorities.
119. In view of the above, GRECO concludes that the Netherlands 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 the Netherlands to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations i-iv, vi-viii, xii and xv) as soon as possible, however – at the latest – by 30 June 2024.
120. Finally, GRECO invites the authorities of the Netherlands to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make the translation public.