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Groupe d'États contre la corruption

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CONSEIL DE L'EUROPE

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FOURTH EVALUATION ROUND

Corruption prevention in respect of members of
parliament, judges and prosecutors

INTERIM COMPLIANCE REPORT

SPAIN

Adopted by GRECO at its 78th Plenary Meeting
(Strasbourg, 4-8 December 2017)

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I. INTRODUCTION

1. The [Fourth Round Evaluation Report](#) on Spain was adopted at GRECO's 62nd Plenary Meeting (2-6 December 2013) and made public on 15 January 2014, following authorisation by Spain. The Fourth Evaluation Round deals with "Corruption Prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of Spain submitted a Situation Report on measures taken to implement the recommendations. GRECO selected Iceland (with respect to parliamentary assemblies) and Italy (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Helgi Magnús GUNNARSSON on behalf of Iceland and Ms Emma RIZZATO, on behalf of Italy. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
3. In the [Compliance Report](#), which was adopted by GRECO at its 72nd Plenary Meeting (27 June-1 July 2016), it was concluded that none of the 11 recommendations contained in the Fourth Round Evaluation Report had been satisfactorily implemented or dealt with in a satisfactory manner by Spain. In view of this result, GRECO concluded that the very low level of compliance with the recommendations was "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asked the Head of delegation of Spain to provide a report on the progress in implementing the pending recommendations (i.e. all recommendations) by 31 July 2017. The report received served as a basis for the Interim Compliance Report.
4. It is recalled that in the Compliance Report, recommendations iii, vii, ix, x and xi have been partly implemented; recommendations i, ii, iv, v, vi and viii have not been implemented. The current [Interim Compliance Report](#) assesses the further implementation of the aforementioned recommendations since the adoption of the Compliance Report, and performs an overall appraisal of the level of Spain's compliance with these recommendations.

II. ANALYSIS

Corruption prevention in respect of members of parliament

5. In 2016, in the 11th legislative term, the Committee for the Auditing of Democratic Quality, the Fight against Corruption and Institutional and Legal Reforms was established in the Congress of Deputies. Its objectives were the analysis of the incompatibilities regime of public positions in order to guarantee its effective observance, avoiding conflicts of interest and the analysis of the effectiveness of new measures and instruments in fields such as transparency, democratic regeneration or the fight against corruption.
6. During the 12th legislative term, the aforementioned Committee promoted the setting up of a Subcommittee devoted to analysing the regime and financing of political parties, strengthening of impartiality of independent authorities and the protection of complainants in corruption cases. On 15 February 2017, the Committee initiated a series of public hearings aimed at benefiting from the knowledge of Spanish and foreign experts concerning the regime and financing of political parties. To date, the Committee has held 28 hearings and has started to draft its report, which should be concluded before the end of the year.
7. This Committee is to become the forum for dialogue to promote reforms aimed at improving the quality of the democratic system, placing special emphasis on the

observance of the recommendations issued by international bodies. There is a large consensus in the parliamentary sphere for this Committee to analyse, on a successive basis, those matters that require reforms of the current provisions. It is foreseen that, in the coming months and years, this Committee shall promote some of the pending updates of the legal framework.

8. Furthermore, there have been several attempts to modernise the Standing Orders of the Chamber of Deputies, the latest of which have also incorporated proposals of amendments which took on board GRECO's recommendations. However, none of these attempts have succeeded to date given the lack of unequivocal parliamentary support. Most parties/parliamentary groups do, in their programmes, include specific measures and initiatives to give practical effect to GRECO recommendations (e.g. to publish agendas of parliamentarians, include details on companies' shares and bonds in disclosure forms, adopt a code of conduct), but the vast majority of these programmatic proposals have yet to materialise in practice in Parliament, as further detailed below.

Recommendations i and iv.

9. *GRECO recommended:*

- *for each Chamber of Parliament, (i) that a code of conduct be developed and adopted with the participation of its members and be made easily accessible to the public (comprising guidance on e.g. prevention of conflicts of interest, gifts and other advantages, accessory activities and financial interests, disclosure requirements); (ii) that it be complemented by practical measures for its implementation, including through an institutionalised source of confidential counselling to provide parliamentarians with guidance and advice on ethical questions and possible conflicts of interest, as well as dedicated training activities (recommendation i);*
- *that appropriate measures be taken to ensure effective supervision and enforcement of the existing and yet-to-be established declaration requirements and other rules of conduct of members of Parliament (recommendation iv).*

10. In the absence of far-reaching improvements of the ethics and conduct regime applicable to parliamentarians, GRECO concluded that recommendations i and iv had not been implemented.
11. The authorities of Spain recognise that a code of conduct needs yet to be developed for members of parliament. Having said that, some additional steps have been taken to ensure that citizens can be clearer on the current conflict of interest regime applicable to parliamentarians. The authorities refer, in particular, to the respective websites of the Congress of Deputies and the Senate dealing with the disclosure of interests and assets, which are grouped on a single interface: applicable legislation, opinions of the relevant committee on incompatibilities (each opinion being preceded by a paragraph detailing the applicable general criteria on incompatibilities to the particular activity at stake), forms for the disclosure of secondary activities, as well as financial interests and assets, and finally, the completed forms by members of parliament.
12. The authorities further stress that there are counselling services provided in-house for ethical-related matters and the prevention of conflicts of interest; the role played by clerks being key in this respect. A legislative proposal on whistleblower protection and other anticorruption measures is currently undergoing consideration in Parliament; it foresees *inter alia* the establishment of a so-called Independent

Authority for Public Integrity¹. The latter would be entrusted, among other aspects, with investigating or monitoring, with a view to better performing its tasks, eventual cases of incompatibilities, conflicts of interests or irregular use or provision of public funds in the State's public sector and with enforcing the incompatibilities regime of the State's senior officials. This body, which would be granted the relevant administrative sanctioning power, would act in an impartial and independent manner and would enjoy large powers to obtain the cooperation of both individuals and public and private entities.

13. GRECO regrets the lack of any new development regarding the adoption of a code of conduct. The recommended code can be not only a meaningful inspirational, value-based instrument to reinstate the commitment of the legislature to high standards of integrity, but it can also enable a broad reflection process on a number of unregulated issues meriting detailed review (e.g. gifts and other types of advantages, ad-hoc disclosure, contacts with third parties, etc.). The latter can prove to be of strategic relevance in the light of the repeated frustrated efforts to amend the internal rules of procedure of the respective Chambers (see paragraph 8); it may be wiser to start building consensus around a "soft" law instrument prior to amending statutory texts.
14. GRECO specifically pointed out, in its Fourth Round Evaluation Report, the valuable role of the clerks of the respective Chambers on the prevention of conflicts of interest, which was considered as a clear example of good practice. GRECO nevertheless called for additional actions to further build up the role of the technical services of Parliament and to address shortcomings which were patent at the time of the on-site visit, in relation to compliance with incompatibility rules (as a way of example, it took almost a year for Congress to approve the so-called report on incompatibilities, which displays details on authorised ancillary activities of parliamentarians in the present legislature), but also regarding asset declaration requirements, and more broadly, parliamentary ethics. The establishment of a dedicated authority for integrity matters in public service may well be of added value in this domain, in so far as it also looks into targeted measures for the parliamentary function. Above all, it is parliamentarians themselves who need to start displaying more determined action in this domain as a sign of their unequivocal commitment to adhere to a strong culture of ethics.
15. In the absence of any major new development in this domain, GRECO concludes that recommendations i and iv have not been implemented.

Recommendation ii.
16. *GRECO recommended the introduction of rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process.*
17. In the absence of concrete rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process, GRECO assessed recommendation ii as not implemented.
18. The authorities of Spain now report that a proposal has been tabled to regulate the so-called interest groups (*grupos de interés*)²; it was discussed first in March 2017 and then in June 2017. The legislative proposal is backed by a broad party consensus as to the need to regulate the matter, but the different political factions differ in points of view regarding the exact breadth and depth of the required regulation.

¹ http://www.congreso.es/public_oficiales/L12/CONG/BOCG/B/BOCG-12-B-33-1.PDF#page=1

² http://www.congreso.es/public_oficiales/L12/CONG/BOCG/B/BOCG-12-B-96-1.PDF

19. According to this initiative, a public registry should be set up where representatives of lobbies who hold meetings with members of the Congress of Deputies and persons ascribed to parliamentary tasks are to be registered on a mandatory basis. Among other measures, it also includes a series of rules of conduct to be applied to the relations of such representatives with the members of the Congress of Deputies.
20. GRECO welcomes the very first step taken to regulate lobbying. This is in itself an encouraging move given the traditional reluctance of parliamentarians to deal with this matter. That said, it is too early to anticipate where the current proposal may lead and whether it would effectively be adopted by the present legislature.
21. GRECO further notes that its recommendation is broader than establishing a register of lobbyists, which appears to be the core matter of the proposed regulation being currently discussed in Parliament. It is the MPs' side of the lobbying equation that is the focus of GRECO's review, i.e. the conduct of MPs with regard to any person or organisation that attempted to persuade the member with regard to his or her legislative duties that was looked into.
22. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.
23. *GRECO recommended that current disclosure requirements applicable to the members of both Chambers of Parliament be reviewed in order to increase the categories and the level of detail to be reported.*
24. GRECO gave credit to the steps taken by Parliament to substantially increase the transparency of its activities on its web portal, including regarding information on sponsored trips. It, however, considered that additional steps were needed to upgrade the existing financial declaration system and concluded that recommendation iii had been partly implemented.
25. The authorities of Spain reiterate the efforts made to increase the transparency of parliamentary work, and the fact that the respective websites of the Congress of Deputies and the Senate lead by example in this area, and include a wealth of information on a broad range of matters: regulation, institutional and organisational information concerning the relevant Chamber, or the Deputies or Senators where the case may be, and parliamentary administration, economic, budgetary and procurement information. Additionally, citizens can pose their own consultations through the Citizens Attention Unit, or fill in a form requesting specific information which they may not find alone through their own searches on the respective websites of Parliament.
26. GRECO already acknowledged in the RC-report the positive measures taken by both Chambers to open up their day-to-day work and operation to the citizens. The information provided by the authorities now confirms that this continues to be the case; a fact that can only be welcomed. That said, GRECO particularly called for targeted improvements of the disclosure regime for parliamentarians. In this connection, GRECO considered that adding the market value of the real estate and vehicles, providing the names of the companies to which the shares and stocks belong; disclosing the interest rates paid for the credits obtained from financial institutions; including information on the gifts received and sponsored trips; and inserting the amount of income (even received in the form of indemnities) received from accessory activities in both forms would enhance the preciseness of the information contained in the forms. Nothing new has been reported in this respect.

27. Whilst refraining from making a formal recommendation, GRECO also noted that, following international experience in this regard and the potential risks of channelling personal financial interests to family members to circumvent the applicable rules, it may furthermore be prudent to consider widening the scope of the declarations to also include information on MPs' spouses and dependant family members (it being understood that such information would not necessarily need to be made public).
28. GRECO concludes that recommendation iii remains partly implemented.

Corruption prevention in respect of judges

29. The authorities explain that two inconclusive general elections, first in December 2015 and then in June 2016, led to a political deadlock of over ten months, with the current Government only taking office in November 2016. This has reportedly delayed reforms in several areas, justice being a key one of those.
30. Shortly after the current Government took office, the Minister of Justice attended hearings at the Justice Committees of both the Congress of Deputies (5 December 2016) and the Senate (29 December 2016) where he presented the main policy lines of a broader justice reform. Some of those are directly related to GRECO's recommendations, including:
- fostering a professionalised and specialised judicial and prosecutorial career through the enhancement of professional promotion systems based on seniority, specialisation and continuous training;
 - reviewing both the system of appointment of members of the General Council of the Judiciary as well as of Presidents of Courts and of Judges of the Supreme Court;
 - providing the prosecution service with a new statute reinforcing its autonomy.
31. Furthermore, ahead of investiture negotiations, in a step towards ending protracted political stalemate, an anti-graft pact was signed (Partido Popular-Ciudadanos). The pact covered over 150 different matters, but regarding the judiciary, the following are of particular significance:
- launching a parliamentary consensus-based reform of the election system for the members of the General Council of the Judiciary so that the twelve members of judicial origin be directly elected by judges and magistrates;
 - adopting a law for whistleblower protection;
 - issuing a national justice strategy aimed at enhancing independence, quality and efficiency of the sector;
 - strengthening career-life conditions for judges and magistrates, particularly, by upgrading appointment and promotion procedures, and reconsidering the issue of revolving doors between politics and the judiciary;
 - abolishing the possibility for regional parliaments to appoint judges of the High Courts of Justice;
 - reforming the statute of the prosecution service in order to strengthen its autonomy and efficiency.
32. The Socialist Party also presented, in December 2016, a non-legislative proposal, stressing the need to comply with the recommendations emanating from GRECO's Fourth Evaluation Round. For the authorities, it is clear that there is factual political support and agreement to make progress in this domain, and that the GRECO related recommendations are a pivotal instrument in the roadmap for reform.
33. A Subcommittee was established, in February 2017, under the *aegis* of the Justice Committee in Congress, to prepare a national justice strategy. The underlying

philosophy of this strategy is to be as inclusive as possible, particularly, as regards participation and inputs of justice operators. It is expected that the Congress will debate the conclusions of the aforementioned Subcommittee in the last quarter of 2017 (parliamentary hearings taking place from 3 November to 11 December 2017; the term of the Subcommittee has been extended to January 2018).

Recommendation v.

34. *GRECO recommended carrying out an evaluation of the legislative framework governing the General Council of the Judiciary (CGPJ) and of its effects on the real and perceived independence of this body from any undue influence, with a view to remedying any shortcomings identified.*
35. GRECO regretted the lack of a more decisive action in this domain and concluded that recommendation v had not been implemented.
36. The authorities of Spain indicate that the Subcommittee of Justice in the Congress is working on a proposal for changes regarding the composition and functions of the General Council of the Judiciary (CGPJ). In doing so, it is consulting judicial associations as well as legal practitioners, to gather views and consensus on the possible options for the future. One of the key changes is that that the twelve members of judicial origin of the CGPJ be directly elected by their peers.³ In addition, changes are also proposed in relation to the functions and working dynamics of the CGPJ (e.g. moving away from presidential management system, further promoting collegiate working methods, decision-making through qualified majority, full-time dedication of all members, etc.).
37. GRECO welcomes the launching of a specific initiative to make changes to the current legislative framework of the CGPJ. GRECO reiterates its view that political authorities shall not be involved, at any stage, in the selection process of the judicial shift. GRECO understands that this particular point has been taken on board, at least at a proposal stage. It is too early to anticipate the final result of the reflection process, which GRECO trusts would help, not only remedying outstanding criticism of the existing situation by the profession itself, but also enhancing public confidence in the judicial system as a whole.
38. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

39. *GRECO recommended that objective criteria and evaluation requirements be laid down in law for the appointment of the higher ranks of the judiciary, i.e. Presidents of Provincial Courts, High Courts of Justice, the National Court and Supreme Court judges, in order to ensure that these appointments do not cast any doubt on the independence, impartiality and transparency of this process.*
40. GRECO noted the lack of any legislative development to lay down objective criteria and evaluation requirements for the higher ranks of the judiciary and, therefore, concluded that recommendation vi had not been implemented.
41. The authorities of Spain explain that the Subcommittee of Justice in the Congress is currently discussing the different proposals of the judicial associations regarding both appointment procedures of the presidencies of the High Courts of Justice and

³ In the current system, the members of the judicial shift are selected among a group of candidates proposed by the very members of the judiciary, subject to formal appointment by Parliament (i.e. the current system is that of indirect election of the judicial shift of the CGPJ).

the Provincial Courts (possibly by abolishing the power of proposal detained by regional parliaments in this respect), as well as their term of tenure.

42. GRECO is pleased to note that a review of the system of appointment of the Presidents of Provincial Courts and High Courts of Justice is under discussion, notably, with a view to ensuring the independence of such appointments. That said, it is too early to assess the extent of the changes and their materialisation in practice. Moreover, it should be noted that the scope of recommendation vi is broader as it targets all higher ranks of the judiciary, thereby also including those in the National Court and the Supreme Courts. Further, the recommendation unequivocally calls for objective criteria and evaluation requirements to be laid down in law. More determined action is needed in this domain.

43. GRECO concludes that recommendation vi has not been implemented.

Recommendation vii.

44. *GRECO recommended that (i) a code of conduct for judges be adopted and made easily accessible to the public; and (ii) that it be complemented by dedicated advisory services on conflicts of interest and other integrity-related matters.*

45. GRECO took note of the on-going elaboration of a code of conduct for judges and assessed this recommendation as partly implemented.

46. The authorities of Spain highlight that a code of conduct, so-called Principles of Judicial Ethics, was adopted on 20 December 2016⁴. It foresees the establishment of a Commission of Judicial Ethics, responsible for issuing opinions in writing upon individual requests concerning ethical dilemma. This Commission is also entitled, on an exceptional basis to prepare reports on topics or issues of public interest. The Commission is formed of seven members: one judge, three magistrates, two magistrates of the Supreme Court and one professor with recognised prestige in this domain. The judicial members of the Commission are elected by their peers; the lay person is then elected by the judicial members of the Commission. Membership of the Commission is on an honorary basis (members are only reimbursed occasional expenses) for a four year term. The CGPJ is responsible for ensuring that the Commission is provided with adequate means and resources to perform its tasks. The appointment process of the members of the Commissions is underway.

47. GRECO welcomes the efforts displayed in this area, notably through the adoption of a tailor-made set of ethical principles embraced by the profession, and looks forward to updated information on the operability of the Commission of Judicial Ethics.

48. GRECO concludes that recommendation vii remains partly implemented.

Recommendation viii.

49. *GRECO recommended extending the limitation period for disciplinary procedures.*

50. In the absence of any new reportable feature in this domain, GRECO assessed recommendation viii as not implemented.

51. The authorities of Spain report that the implementation of this recommendation is also linked to the conclusion of the work of the Subcommittee of Justice in the Congress.

⁴ <http://www.poderjudicial.es/cgpj/es/Temas/Transparencia/Buen-Gobierno-y-Codigo-etico/Codigo-Etico/>

52. GRECO can only reiterate its findings contained in the Fourth Evaluation Round Report on Spain, which clearly evidenced how the six-month limitation period for disciplinary procedures was proven to be short in practice. More particularly, it was noted at the time that the short time span had given rise to a number of decisions of the Supreme Court overturning the sanction of the CGPJ on the grounds that the relevant disciplinary proceedings had not respected the statute of limitations. It was further remarked that the applicable deadline for proceedings against judicial secretaries and civil servants working in the judicial administration is 12 months.
53. GRECO concludes that recommendation viii has not been implemented.

Corruption prevention in respect of prosecutors

Recommendation ix.

54. *GRECO recommended (i) reconsidering the method of selection and the term of tenure of the Prosecutor General; (ii) establishing clear requirements and procedures in law to increase transparency of communication between the Prosecutor General and the Government; (iii) exploring further ways to provide for greater autonomy in the management of the means of the prosecution services.*
55. GRECO acknowledged that the first component of the recommendation had been duly considered, but urged the authorities to take more substantiated improvements to provide for greater autonomy of the prosecution service, in particular, with respect to components ii – transparency of communication with the Government, and iii – greater financial autonomy. GRECO considered this recommendation as partly implemented.
56. The authorities of Spain reiterate that significant reform has taken place throughout the years to restrict the scope of the constitutional provision which establishes that the Prosecutor General is appointed by Government. In particular, Act 24/2007 marked a decisive turning point; from that moment on, the appointment is made by Government, but the opinion of the CGPJ is also required, as well as an appearance before the Spanish Parliament in order to assess the merits and suitability of the candidate. Dismissal grounds are set in law and the term of office is limited to four years, without a possibility of re-election. The current model does not differ much from others in place in several GRECO member States.
57. Likewise, the authorities restate that it is not possible for the Government to give orders or recommendations on a particular case to the Prosecutor General; the Government can merely request the initiation of a proceeding (a right that is also conferred on regional government, as well as on any citizen), but never intervene in an on-going investigation. In such cases, the Prosecutor General is not bound to act in a particular manner, but rather can decide as s/he may deem adequate, including by following the advice of the Board of High Prosecutors. These actions are always recorded in written form, even if not expressly foreseen in law.
58. The prosecution service may communicate with the Government by two methods, namely, via presentation of the annual activity report, which is also submitted to Parliament, and, exceptionally, providing that the case is of paramount importance and there is no obstacle to do so. The last time that the latter occurred was in 2010 due to the declaration of a state of alarm.
59. As regards budgetary autonomy, Act 24/2007 establishes that prosecutors' offices shall have appropriate premises within the headquarters of the corresponding courts, or outside when required to provide better service. Two headings of the budget are specifically assigned to the prosecution service amounting in 2017 to 14 598 170 EUR (staff costs, current expenditure on goods and services, ICT

investment) and 223 177 430 EUR (personnel expenditure of all prosecutors, except those belonging to the State Prosecutor's Office), respectively. In addition, other current and investment expenditure is included in a separate budget line, which is shared with the courts.

60. In an effort to further strengthen the autonomy of the prosecution service from the Government, it was decided that incompatibility-related/authorisation decisions are made by the Prosecutor's General Office directly, instead of the Ministry of Justice.
61. Having said that, and as a result of a continued domestic debate which coincides in essence with GRECO concerns, additional efforts are being displayed in this domain; the Spanish authorities wishing to reinstate their firm commitment to improvement. More particularly, the Subcommittee of Justice is working on amendments to the statute of the prosecution service in order to reinforce its autonomy. The different interlocutors who are engaged in this process concur on the key role that the prosecution service has played to uncover corruption; they advocate for an increase in resources (in particular, concerning the Special Prosecutor's Office against Corruption and Organised Crime), but also for additional rules to enhance transparency of the Prosecutor General's Office, including by reviewing the system of appointment and removal of the Prosecutor General. There is clear agreement in the working group that the principles of unity and hierarchy governing the prosecution service must be reconciled with that of impartiality, by excluding any intervention of the Government in specific cases.
62. GRECO takes note of the explanations provided by the authorities which do not add anything new to the situation which was already assessed in the Fourth Evaluation Round Report. GRECO welcomes the fact that the authorities are looking into further measures to enhance effective autonomy of the prosecution service, including by reopening the long-standing debate on the method of selection and the term of tenure of the Prosecutor General. In this connection, GRECO has repeatedly called for additional measures to gain the confidence of the public and the legal profession. It is crucial that prosecution is, and appears to be, impartial, objective and free from any improper influence, particularly of a political nature.
63. GRECO also acknowledges the on-going work of the Subcommittee of Justice in the Congress to come up with reasoned proposals fully excluding Government intervention in specific cases and infusing greater transparency into prosecutorial decisions to the extent possible (i.e. without risking investigation). GRECO has been very clear in this respect: it is key that communication between the Prosecutor General and the Government is made in a transparent manner, in writing and published in an adequate way. Nothing new has been reported regarding further ways to increase economic autonomy of the prosecution service; the remarks made by GRECO in this domain therefore remain valid, particularly, as to self-management of expenditure by the prosecution, subject to appropriate auditing and accounting control. GRECO looks forward to future developments in this respect.
64. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.
65. *GRECO recommended that (i) a code of conduct for prosecutors be adopted and made easily accessible to the public; and (ii) that it be complemented by dedicated guidance on conflicts of interest and other integrity-related matters.*
66. GRECO took note of the on-going drafting of a code of conduct for prosecutors and assessed this recommendation as partly implemented.

67. The authorities of Spain state that drafting of the code of conduct for prosecutors is underway following a bottom-up approach with consultation of the prosecutorial ranks. Further, the Minister of Justice has referred to the need for prosecutors to align with the requirements set for other public officials, which may even imply filing a declaration of assets.
68. GRECO regrets the lack of more determined action in this domain. GRECO already highlighted the merits of a code of conduct, not only for the profession itself, but also for citizens as a clear public statement on the standards of service and integrity to which the prosecution service adheres. GRECO notes the new developments reported concerning the establishment of an asset declaration system, which as GRECO has recognised can constitute an additional useful tool for corruption prevention purposes.
69. GRECO concludes that recommendation x remains partly implemented.
- Recommendation xi.
70. *GRECO recommended developing a specific regulatory framework for disciplinary matters in the prosecution service, which is vested with appropriate guarantees of fairness and effectiveness and subject to independent and impartial review.*
71. GRECO took note of the steps underway to reinforce the disciplinary system of the prosecution service. However, pending adoption of the anticipated rules, GRECO concluded that recommendation xi had been partly implemented.
72. The authorities of Spain indicate that the draft statute of the prosecution service lays out a new disciplinary framework both concerning the authority to impose sanctions (leaving out the Ministry of Justice), and the procedure to be followed. At present, there is a non-formalised system which follows the rules of the disciplinary procedure for judges' misconduct which are laid out in the Organic Law of the Judiciary, as applied and tailored to the prosecution service. Notably, the investigating officer is a prosecutor of the Supreme Court without hierarchical dependence; the decision on the sanction is then made by the Minister of Justice. While it is acknowledged that the ultimate sanctioning power should be taken out of the Minister's hands, it is also true that there are strict safeguards in place so that the latter's decision is not arbitrary; the sanction must be proposed by the Prosecutor General after hearing the Prosecution Council, and proceedings cannot be initiated by the Ministry, but by the Office of the Prosecutor General through the appointment of an investigating officer not subject to the principle of hierarchy. The authorities themselves recognise that the disciplinary regime of prosecutors is due for a profound overhaul.
73. GRECO notes that the information provided as to the applicable discipline regime adds nothing new to what was already assessed in the past and found not to be entirely satisfactory. GRECO, therefore, reiterates its view point that there needs to be a specific regulatory framework for disciplining prosecutors.
74. GRECO concludes that recommendation xi remains partly implemented.

III. CONCLUSIONS

75. In view of the foregoing, GRECO concludes that none of the eleven recommendations contained in the Fourth Round Evaluation Report has been implemented satisfactorily or dealt with in a satisfactory manner by Spain. Seven recommendations have been partly implemented; four recommendations have not been implemented.
76. More specifically, recommendations ii, iii, v, vii, ix, x and xi have been partly implemented; recommendations i, iv, vi, and viii have not been implemented.
77. While GRECO understands that election results led to a political deadlock of over a year (2015-2016) rendering very difficult effective reform, that period is now well passed and determined action must follow not only in words and plans, but also in actual deeds. With respect to parliamentarians, several recommendations await implementation including the adoption of a code of conduct in both Houses, a thorough review of the financial disclosure regime and the establishment of an enforcement mechanism when misconduct occurs. It would appear that a draft on lobbying is now underway; this is a promising development and a step forward to enhance transparency on how parliamentarians engage with lobbyists and other third parties who seek to influence the legislative process.
78. GRECO wishes to underline, as it already did in the Fourth Evaluation Round Report, that there is no doubt as to the high quality of the judiciary and the prosecutorial service in Spain, as well as to the strong spirit of public service and dedication of individual judges and prosecutors. GRECO welcomes the reflection process underway to issue a national justice strategy and to make targeted improvements for greater independence and efficiency of the judiciary, including through changes in the systems of appointment of its governing bodies and certain higher rank officials. Regarding integrity and ethical matters, a code of conduct has been adopted and a Commission of Judicial Ethics, which has not yet started to operate, is tasked with advisory responsibilities in this respect. Finally, a reform of the statute of the prosecution service is pending; it is aimed at strengthening autonomy of prosecution. It also paves the road for some additional developments in the field of ethics regarding, for example, the adoption of a code of conduct for the profession, as well as a new disciplinary framework.
79. GRECO concludes that overall there has been limited progress which would substantiate a different view from that taken in its previous compliance report (RC-IV). GRECO concludes that the current level of compliance with the recommendations remains "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.
80. Pursuant to paragraph 2(i) of Rule 32 of the Rules of Procedure, GRECO requests the Head of Delegation of Spain to provide a report regarding the action taken to implement the pending recommendations (i.e. all recommendations) by 31 December 2018.
81. Moreover, in accordance with Article 32, paragraph 2, sub-paragraph (ii.a), GRECO instructs its President to send a letter – with a copy to the President of the Statutory Committee – to the head of the Spanish delegation, drawing her attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
82. Finally, GRECO invites the authorities of Spain to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.