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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

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

### COMPLIANCE REPORT

### ROMANIA

Adopted by GRECO at its 78<sup>th</sup> plenary meeting  
(Strasbourg, 4-8 December 2017)

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## I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the Romanian authorities to implement the recommendations issued in the Fourth Round Evaluation Report which was adopted by GRECO at its 70<sup>th</sup> plenary meeting (4 December 2015) and made public on 22 January 2016, following authorisation by Romania ([link to the report](#)). GRECO's 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 Romanian authorities submitted a Situation Report containing information on measures taken to implement the recommendations. This report was received on 5 July 2017 and served, together with information provided subsequently (including an update of 13 November), as a basis for the present Compliance Report.
3. GRECO selected Denmark (in respect of parliamentary assemblies) and Turkey (in respect of judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Anders LINNET on behalf of Denmark and Mr Guray GÜÇLÜ on behalf of Turkey. They were assisted by GRECO's Secretariat in drawing up this Compliance Report.
4. This Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendations (partly or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities after the adoption of the present Compliance Report.

## II. ANALYSIS

5. GRECO addressed 13 recommendations to Romania in its Evaluation Report. Compliance with these recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

#### Recommendation i.

6. *GRECO recommended that the transparency of the legislative process be improved (i) by further developing the rules on public debates, consultations and hearings, including criteria for a limited number of circumstances where in camera meetings can be held, and ensuring their implementation in practice; ii) by assessing the practice followed and accordingly revising the rules to ensure that draft legislation, amendments to such drafts and the agendas and outcome of committee sittings are disclosed in a timely manner, and that adequate timeframes are in place for submitting amendments and iii) by taking appropriate measures so that the urgent procedure is applied as an exception in a limited number of circumstances.*
7. The Romanian authorities, in respect of the first element of the recommendation, remind the rules in place in the Constitution and regulations of the Chambers regarding public attendance at meetings. The plenary meetings of the two chambers are public unless decided otherwise or if classified materials are examined (in practice the Senate did not hold in camera meetings in the past 10 years). Article 118 of the Senate Regulation and article 142 of the Chamber of Deputies Regulation provide for a system of accreditation for diplomats, the media as well as other guests. For citizens, access rights are granted on demand. Regarding committee meetings, the Senate Regulation (article 62) provides that (only) representatives of the press may attend these meetings. The Senate's Legal

Commission nonetheless accepts the presence of NGO representatives in practice, through contacts with the Secretariat of the Commission (and the usual security clearance at the entrance). The authorities also reiterate information on public broadcasting of sessions: meetings of the Chamber of Deputies' plenary and commissions are broadcast live and recordings are archived on the Internet, the same goes for meetings of the Senate's plenary.

8. As for the second part of the recommendation, the authorities recall the rules and practices followed for 1. the adoption and the publication of the agenda (Senate plenary and committee meetings: no later than the day before the meeting; Chamber of representatives: on the day they are approved); 2. The outcome of the meetings (summaries are published on-line); 3. The procedure and deadlines for the distribution of draft laws and proposals, submitting amendments and opinions or reports (the Senate's Bureau establishes the deadline *ad hoc* but these cannot be shorter than 5 calendar days, or 3 calendar days for the urgent procedure). The Chamber of Deputies has maximum deadlines for the consideration of drafts, ranging from 14 to 60 days depending on the case.
9. Concerning the third part of the recommendation, the authorities take the view that reasonable deadlines are in place to allow for a substantive consultation process in case the urgent procedure is applied (30 to 45 session days i.e. over 50 calendar days). The urgent procedure can only be applied when both chambers are involved in the discussion of a text and not if the chamber concerned acts as the decisional chamber.
10. GRECO takes note of the above and regrets that Romania has not undertaken any review of its rules and practices to meet the concerns of the present recommendation. As regards the first element of the recommendation, the information provided just confirms again that no adequate rules are in place to allow for public debates, consultations and hearings. Nor have clear rules / criteria been adopted for a limited number of circumstances where meetings can be held *in camera* in respect of both chambers. The same goes for the second and third parts of the recommendation: there has been no review – as expected – of the practice and timelines for consultation and to limit the use of expedited procedures pointed out in the Evaluation Report. By referring also to the maximum deadlines for the consideration of drafts, the authorities appear to misinterpret the present recommendation.
11. GRECO recalls that excessively hasty legal amendments without proper consultations, whether by the government or the parliament (the distinction is not always clear either – see the contextual information in recommendation xiii) remains a problematic area in Romania, especially when the measures are perceived as undermining the country's integrity and anti-corruption efforts and as serving partisan interests. There have been several such examples recently, for instance with regard to the definition of the offence of abuse of office<sup>1</sup> which triggered large street protests and was repealed a few days later, with two ministers resigning including the justice minister<sup>2</sup>. Similarly, in February 2017, a bill on pardons was examined in parliament and additional amendments were proposed to extend these to corruption-related offences<sup>3</sup>. See also under recommendation xiii, the on-going controversies surrounding certain reforms of the judiciary. GRECO

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<sup>1</sup> <http://www.reuters.com/article/us-romania-corruption/romanian-deputy-pm-shhaideh-investigated-for-abuse-of-office-idUSKCN1BX16K> and <https://www.romania-insider.com/liviu-dragnea-new-abuse-office-case/>

<sup>2</sup> He is now chairing the parliamentary committee for ensuring legislative stability in the field of justice and the issue of the threshold he proposed in January is still on the political agenda; see for instance <https://www.romania-insider.com/new-threshold-abuse-of-office/>

<sup>3</sup> <http://www.balkaninsight.com/en/article/romanian-parliament-to-debate-controversial-pardoning-bill-03-07-2017>

urges Romania to take determined action in order to implement the present recommendation.

12. GRECO concludes that recommendation i has not been implemented.

Recommendation ii.

13. *GRECO recommended (i) developing a code of conduct for the members of parliament and (ii) ensuring there is a mechanism to enforce [its rules] when it is necessary.*
14. The Romanian authorities indicate that a draft code of conduct was prepared and approved in the first half of 2017 by the legal committee of each chamber of parliament. The final adoption took place at a joint plenary sitting of both chambers on 11 October 2017<sup>4</sup>. This new Code establishes a series of general requirements pertaining to the MP's independence (art.2), objectivity (art.3), responsibility (art.4), probity (art.5, which is actually about disclosing any personal interest that might influence their public actions), conduct and exemplarity (art.6), information of citizens (art.7). The Code also deals with declaratory obligations: article 8 recalls the regime in place for the declaration of interests and assets, and provides for a new duty to declare gifts and other benefits (see below recommendation iv).
15. Specifically with regard to the second part of the recommendation, the authorities refer to article 9 of the Code which provides for a procedure for solving complaints:

*Article 9 - Procedure for solving complaints*

*(1) Any referral regarding the violation of this Code by deputies and senators shall be solved by the Legal Commissions of the two Chambers, as the case may be.*

*(2) Any deputy or senator may notify in writing the commission provided in para. (1) on suspicion of breach of this Code or its non-application. The deputy or senator will also inform the President of the Chamber of Deputies or of the Senate regarding the referral, as the case may be.*

*(3) The commission shall draw up a report within 30 calendar days from the date of the submission of the referral. If it is found that a deputy or a senator has violated the provisions of this Code, the report proposes sanctioning measures in accordance with Law no. 96/2006 on the Statute for Deputies and Senators, republished, as subsequently amended and supplemented, or with the regulations of each Chamber, as the case may be. [5]*

*(4) The commission has the obligation to invite the deputy or senator concerned to the hearing in order to present his / her point of view.*

16. GRECO notes that in addition, an article 10 specifically entitled "sanctions" refers to the applicability of the enforcement mechanism in Law 96/2006 on the Statute of Deputies and Senators<sup>6</sup> as regards matters pertaining to incompatibilities or conflicts of interest, but also prohibitions and misbehaviour of parliamentarians.:

*Article 10 – sanctions*

*The scope [in Romanian: Sfera] of incompatibilities or conflicts of interest, interdictions and parliamentary disciplinary misconduct and the application of sanctions those established exclusively by Chapters IV and XII of Law 96/2006 on the Statute of Deputies and Senators (...).*

<sup>4</sup> The text was published in the Official Journal and it can now be found : a) on the Senate's website under the heading "Senatul României: legislatie" or <https://www.senat.ro/pagini/statutul/CodConduita.PDF> and b) on the Chamber's homepage under "legislatie" or [http://www.cdep.ro/pls/dic/site2015.page?den=act6\\_1](http://www.cdep.ro/pls/dic/site2015.page?den=act6_1)

<sup>5</sup> For instance, the rules of the Chamber of Deputies (art. 243) provide for the following measures: 1. call to order; 2. withdrawal of speaking rights; 3. exclusion from the room during a hearing; 4. written warning; 5. Reduction of 10% on indemnities for a maximum of 3 months in case of violation of the legislation on conflict of interest.

<sup>6</sup> [http://www.cdep.ro/pls/dic/site.page?den=act3\\_1&par1=0](http://www.cdep.ro/pls/dic/site.page?den=act3_1&par1=0)

17. As regards the first part of the recommendation, GRECO is pleased to see that a code of conduct was finally adopted by parliament. It notes that the adoption of the Code has been a contentious issue, with MPs questioning its added value and the impact<sup>7</sup>.
18. In the light of the discussions held on-site, GRECO had already warned in the Evaluation Report that the added value of a code would be limited if it were to be drafted in excessively general terms – see also hereinafter the consequences for the rules on conflicts of interest and gifts and other benefits. GRECO also emphasised the importance of appropriate guidance and concrete examples / issues from “real life” situations. All the above could undermine the effectiveness of the Code in future. Although this part of the recommendation has formally been implemented, Romania is advised to regularly update this newly adopted code and/or to elaborate accompanying guidance. Romania is also encouraged to promote the code: GRECO recalls that a code of conduct should be a living document, visible to all, and not a text adopted once and for all that is not referred to in daily practice.
19. As regards the second part of the recommendation, article 9 of the Code provides for a specific system to ensure compliance with the new code of conduct. Given that the effective enforcement of rules was mentioned in the Evaluation Report as a specific issue in Romania, GRECO expects that a robust system is put in place. From that perspective, article 9 is not coherent and specific enough, for instance as to who can report a suspicion or violation and whether parliamentary bodies can act also ex officio and/or upon a tip or complaint from outside Parliament. When discussing the present report, it was explained by the Romanian authorities that article 9 provides for the possibility to receive complaints from anyone outside parliament (paragraph 1) and from any MP (paragraph 2); as for any other committee, under the general rules of procedure, a proposal can emanate from the legal commissions provided a majority of members would support the motion and a quorum is available. Any proposed measure (article 9 paragraph 3) is then submitted for approval to the Bureau, the composition of which reflects the political forces in Parliament. The Romanian delegation also took the view that because the Code was designed as a synthetic document, any desirable improvement and clarification concerning the functioning of the complaints mechanism would need to be addressed in the rules of each chamber. GRECO very much supports such improvements, so that the rules are clear for everyone and to avoid unnecessary difficulties in future practice. Above all, GRECO considers that articles 9 and 10 appear to overlap and to contradict each other when it comes to the subsequent applicable enforcement mechanism and article 10 only refers to the one provided for in law 96/2006 which is based on formal procedures involving in particular the National Integrity Agency (the Romanian delegation suggested that the deletion of article 10 could be a starting point). This situation is clearly undermining the effectiveness of the rules in future. When Romania reviews the consistency of these arrangements, it also needs to clarify that the enforcement of the new rules on ad hoc disclosure of conflicts of interest is a specific subject matter that needs to be dealt with on a daily basis in Parliament. Romania needs to take more determined action in respect of this second part of the recommendation.
20. GRECO concludes that recommendation ii has been partly implemented.

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<sup>7</sup> <https://www.agerpres.ro/politica/2017/10/11/codul-de-conduita-al-deputatilor-si-senatorilor-aprobat-de-parlament-14-57-09>

Recommendation iii.

21. *GRECO recommended that measures be taken i) to clarify the implications for members of parliament of the current provisions on conflicts of interest independently of whether such a conflict might also be revealed by declarations of assets and interests and ii) to extend the definition beyond the personal financial interests and iii) to introduce a requirement of ad hoc disclosure when a conflict between specific private interests of individual MPs may emerge in relation to a matter under consideration in parliamentary proceedings – in the plenary or its committees – or in other work related to their mandate.*
22. The Romanian authorities indicate that Law no. 96/2006 on the Statute of Deputies and Senators was amended by Law no. 30/2017 in order to clarify the implications of art. 301 of the Criminal Code (which criminalises conflicts of interest) for the statutory provisions regulating the parliamentary office of senators and deputies. Thus, it has been laid down that employing for a parliamentary office a person (other than relatives) with whom the MP had earlier working relations before taking up his/her mandate does not generate a conflict of interest.
23. The authorities also recall that article 19 of Law no. 96/2006 clearly states that breaching the (non-criminal) legislation on conflicts of interest constitutes a disciplinary offense liable to a 10% reduction of indemnities for a maximum of three months. Other provisions further regulate the procedure for applying the sanction as well as relations with the National Integrity Agency (the body responsible for verifying declarations of interests and assets of officials in Romania).
24. As regards the third part of the recommendation and as pointed out in respect of the previous recommendation, article 5 of the newly adopted Code of conduct for deputies and senators provides that "deputies and senators have the duty to disclose any personal interest that might influence their public actions".
25. GRECO takes note of the information provided. As for the first and second parts of the recommendation, the reported amendment does not address the various concerns expressed in paragraphs 28 and 29 of the Evaluation Report. The new administrative law provision referred to by the Romanian authorities actually just limits the scope of the (penal law) incrimination of conflicts of interest without seeking to prevent or manage situations which could become a criminal offence. In relation to the hiring of personnel or parliamentary assistants, a better solution would be to define objective criteria on who can apply (or not) for such positions. Moreover, the existence of article 19 of Law no. 96/2006 – already mentioned in that report – is of limited value in the absence of specific arrangements making it clear what kind of situations other than incompatibilities (article 19 appears under a chapter on incompatibilities) would trigger the application of that article in respect of committee or plenary work, with regard to certain responsibilities in parliament, and with regard to the general management of parliamentary resources and facilities etc.
26. As for the third part of the recommendation, the newly adopted code of conduct establishes a duty for MPs to disclose "any personal interest that might influence their public actions". In GRECO's opinion, and in the absence of further clarification, such a general provision is insufficient: it does not spell out clearly that this refers to ad hoc situations when they arise, independently from the declaratory obligations, nor to actual or perceived conflicts. Moreover, the consequences of a disclosure are not spelled out, nor how a situation would be solved as necessary; interestingly, the draft version of the Code initially examined by GRECO required at least from the MP concerned "to actively participate in solving a possible conflict of interest for the benefit of the general interest". It is clear that the actual benefits of

this new rule are very limited, compared to international standards<sup>8</sup>, and will also largely depend on other actions that still need to be taken in respect of the other elements of the recommendation. Overall, GRECO cannot conclude that the situation has improved in any meaningful way since the Evaluation Report.

27. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

28. *GRECO recommended establishing a robust set of restrictions concerning gifts, hospitality, favours and other benefits for parliamentarians, and ensuring that the future system is properly understood and enforceable.*

29. The Romanian authorities refer to article 8 of the newly adopted code of conduct for deputies and senators.

Article 8 of the code of conduct

(...)

*(2) Deputies and senators have the obligation to declare any gifts or benefits received in the exercise of their office, except for the situations provided by Law no. 251/2004 on certain measures regarding the goods received free of charge in connection with protocol actions in the exercise of their mandate or function, in compliance with point VI of Annex no. 1 to Law no. 176/2010 on integrity in the exercise of public functions and dignities, amending and supplementing the Law no. 144/2007 on the establishment, organization and functioning of the National Integrity Agency, as well as for amending and supplementing other normative acts, as subsequently amended.*

30. They submit that this provision complements the existing legal framework, consisting of the legislation on asset declaration and control, the bribery offences of the Criminal Code and the law on declaration of gifts received during the exercise of protocolary functions.

31. GRECO takes note of the above provisions of article 8 of the newly adopted code of conduct. The new arrangements do not spell out whether the duty “to declare any gifts or benefits received in the exercise of their office” serves a specific purpose such as control and approval, and by whom, and whether certain gifts are prohibited/allowed under certain conditions and/or must be returned or transferred into the ownership of parliament (depending on the case). Nor is it spelled out whether information on gifts and other benefits declared is to be retained and published somewhere.

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<sup>8</sup> Guidance for the drafting of rules on the management of conflicts of interest can be found for instance in article 13 of the model code appended to Recommendation R (2000)10 of the committee of Ministers on codes of conduct for public officials:

*“Article 13 – Conflict of interest*

*1. Conflict of interest arises from a situation in which the public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.*

*2. The public official's private interest includes any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations. It includes also any liability, whether financial or civil, relating thereto.*

*3. Since the public official is usually the only person who knows whether he or she is in that situation, the public official has a personal responsibility to:*

*- be alert to any actual or potential conflict of interest;*

*- take steps to avoid such conflict;*

*- disclose (...) any such conflict as soon as he or she becomes aware of it;*

*- comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.*

*4. Whenever required to do so, the public official should declare whether or not he or she has a conflict of interest. (...)”*



32. Moreover, paragraph 32 of the Evaluation Report had pointed to a number of issues and gaps, including diverging interpretations of the rules already in place, the fact that the system of declaration of interests and assets (which is meant to assess asset variations and prevent illegitimate donations) excludes property benefits received from first and second degree relatives, and last but not least the lack of effectiveness in practice. GRECO encourages Romania to step up efforts to fully implement the present recommendation both through the appropriate amendments and action to support the effective implementation of rules on gifts in practice. Overall, GRECO cannot consider that this recommendation has been implemented even partly, given the many remaining gaps.
33. GRECO concludes that recommendation iv has not been implemented.
- Recommendation v.
34. *GRECO recommended that i) an adequate assessment of the rules on incompatibilities, especially their consistency and their enforcement in practice be carried out so as to identify the reasons for the perceived lack of effectiveness, and to make the necessary changes; ii) that ways be found to accelerate and enforce the judicial decisions concerning incompatibilities.*
35. The Romanian authorities state that on 21 June 2017, the National Integrity Agency (ANI) finalised an assessment of the rules on incompatibilities and their enforcement in practice, a copy of which is communicated to GRECO. The assessment analyses incompatibilities and conflicts of interest situations regarding MPs for the last 3 years, as well as the level of enforcement of the rules on incompatibilities and conflicts of interest.
36. The assessment also identifies ways to accelerate and enforce the judicial decisions concerning incompatibilities and conflicts of interest: a) ANI constantly follows-up on its finalized cases, which are pending before Parliament and requests repeatedly, as the case may be, the enforcement of the sanctions; b) ANI had various meetings with the representatives of the Legal Commissions of both chambers of Parliament in order to accelerate and enforce the judicial decisions concerning incompatibilities and conflicts of interest; c) whenever there have been legislative proposals concerning incompatibilities and conflicts of interest of MPs, ANI has issued official positions; these have been communicated to Parliament and published on ANI's website<sup>9</sup>; d) regarding the enforcement of disciplinary sanctions, ANI made efforts in order to accelerate and enforce the Court's definitive and irrevocable decisions, regarding deputies and senators, by applying administrative fines, in accordance with art. 29, para. (3), of Law no. 176/2010<sup>10</sup>.
37. ANI and the National Institute of Magistracy have signed in May 2017 a cooperation protocol in order to establish a general collaboration framework so that legal councillors, judges and prosecutors, as well as integrity inspectors, be trained on such subjects as conflicts of interests, incompatibilities, ensuring the integrity in exercising public offices and dignities, and the prevention of public corruption. The concrete implementation and time-schedules are currently under discussion but activities could start in the beginning of 2018.
38. GRECO is pleased to see that an assessment was finalised in June 2017 by the National Integrity Agency (ANI) on the effectiveness of incompatibilities and conflicts of interest in accordance with the first part of the recommendation.

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<sup>9</sup> <https://goo.gl/WhZSwU>

<sup>10</sup> "Not enforcing disciplinary sanctions or not ascertaining the end of the public position, as appropriate, when the decision has become final, constitutes a contravention punishable with a fine from 50 lei to 2,000 lei, if the action is not a [more serious] offense."



Proposals have been made to improve the situation described in paragraphs 28 and 39 of the Evaluation Report. GRECO notes that ANI's study refers to certain improvements with regard to the implementation of sanctions including the termination of a mandate in case of unresolved situations. In particular, the percentage of sanctions implemented has increased and the timelines for implementation have been shortened. However, as ANI's study shows, the situation is still not satisfactory: cases where sanctions are still not implemented and incompatibilities properly and effectively enforced are still common<sup>11</sup>.

39. Although measures have been taken with regard to both parts of the recommendations, there is thus still a clear need to devise further measures to enforce decisions. It is also striking that apart from ANI, the parliament itself has apparently taken no measure to support the implementation of the present recommendation, despite the alleged lack of political will signalled by ANI in its study in addition to what is said in the Evaluation Report. In their most recent comments, the authorities refer to the latest CVM report of the European Commission, dated 15 November 2017, which also points to persisting unresolved situations of incompatibilities, legal gaps concerning incompatibilities generated by previous positions held in the public sector and so on.
40. Last but not least, ANI's study was finalised in June 2017 and it is clear that translating it into further measures requires more than just a few months. The situation will need to be reassessed at a later stage. GRECO encourages Romania to pursue its efforts to fully implement the present recommendation.
41. GRECO concludes that recommendation v has been partly implemented.  
  
Recommendation vi.
42. *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.*
43. The Romanian authorities refer to the two draft laws, respectively "on the organisation of lobbying activities" and "on the regulation of lobbying activities", numbered PI-x nr. 581/2010<sup>12</sup> and n° PL-x nr. 739/2011<sup>13</sup>, which were under consideration at the time of the on-site visit and initiated in Parliament already in 2010; these were discussed last on 9 May 2017 by one of the committees of the Chamber of Deputies. The first draft regulates mainly the obligations of lobbyists (art.9) and relations with public authorities (art.10) and it prohibits members of parliament themselves to engage in lobbying (art.6).
44. The second draft regulates their relationship with public authorities (art.7, which deals with the registration and delivery of special access cards), and provides for measures on the transparency of contacts held by "public officials" (including MPs according to art.2) with lobbyists; in particular: a) public officials have the obligation to publish on a monthly basis on the website of their institution, the agenda of meetings with representatives of lobby firms; b) the public authority has

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<sup>11</sup> "Nonetheless, the National Integrity Agency has faced cases where the Parliament refused to apply disciplinary sanctions, or has revoked its decision, as well as cases where a person under the interdiction to occupy a public office or dignity, was validated by the Parliament in the deputy or senator office, regardless of ANI's constant notifications. The difficulties the Agency faces when requesting the Parliament to apply the disciplinary sanctions regulated by law, have also been ascertained by the European Commission's reports on Romania's progress within the Cooperation and Verification Mechanism (...). Analysing the current state of play, we conclude that applying the disciplinary sanctions by the Chamber of Deputies and Senate is a matter of will, rather than an unclear legislation."

<sup>12</sup> [http://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?cam=2&idp=10808](http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?cam=2&idp=10808)

<sup>13</sup> [http://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?cam=2&idp=11970](http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?cam=2&idp=11970)

the obligation to keep a record of the lobbying activities, which shall include at least: the identity of the lobbyist and the client, information on the objectives of the lobbying activities developed for each client, the date of meetings. The draft also provides for incompatibilities and prohibitions and in particular, public officials may not be shareholders/ associates, administrators or employees of a lobbying company. In their latest information, the authorities also point out that an NGO has recently proposed to extend to the Parliament the applicability of the Transparency Registry used for relations involving the Executive, set up in 2016. The proposal is being examined by the legal commission of the Senate.

45. GRECO takes note of the details of the two draft laws which were already discussed in Parliament at the time of the on-site visit in 2015, and which have been initiated back in 2010. Several provisions appear to be pertinent insofar as the obligations of MPs are concerned; the rules as a whole, if adopted, would address several concerns expressed in paragraph 42 of the Evaluation Report. However, these initiatives largely predated the Evaluation Report and there have been no further tangible developments reported since the on-site visit as regards the conduct expected from MPs in their relations with lobbyists. Moreover, GRECO wishes to recall that the present recommendation is not limited to contacts with persons who perform lobbying activities on a professional basis, and that it also refers to contacts with other third persons. Overall, GRECO cannot conclude that tangible new developments have taken place since the adoption of the Evaluation Report.
46. GRECO concludes that recommendation vi has not been implemented.  
  
Recommendation vii.
47. *GRECO recommended that consideration be given i) to further increasing the data-processing capabilities of the National Integrity Agency; ii) to strengthening its proactive approach in the monitoring of declarations of assets and interests.*
48. The Romanian authorities refer, as regards the first part of the recommendation to the fact that in order to increase the processing capabilities of ANI, the most important IT tool the Agency has developed in its prevention activity, in the past 3 years, is the PREVENT System. This tool was launched on 20 June 2017 and it will significantly increase the data processing capabilities of the Agency by correlating various databases. The objective of this system is to prevent conflicts of interest in the public procurement field, by automatically detecting whether participants in the public bid are relatives or are connected to people from the contracting institution`s management. Also, the system aims to raise the accountability among heads of public authorities and to avoid situations where EU financed project are blocked due to fraud issues and, finally, to raise the absorption rate of the structural funds. It represents the output of an EU funds financed project in 2014, the total cost reaching the amount of 31 million lei (approx. 7 million euro). "PREVENT" will essentially be an administrative tool, but will cover all contracts within its scope, and not just operate on a sample basis (contrary to other existing systems).
49. As for the second part of the recommendation, the authorities refer to a series of actions in relation to:
  - a) prevention and awareness in the context of the parliamentary elections of December 2016: ANI established a single point for assets and interests disclosures submitted by candidates – the assets and interest disclosures have been collected, processed and published in a different section on the Agency's website; it also drew up a study on recurring errors and violations of the legislation by MPs; a special point of contact and a telephone hotline were established to provide guidance to candidates as regards their

declaratory obligations and the rules on incompatibilities and conflicts of interests; updated guidelines on declaratory obligations were published on ANI's website; ANI has disseminated information targeting persons/institutions involved in the electoral process and political parties (for instance recalling declaratory obligations on assets and interests – including in an electronic format – and disseminating the names of persons disqualified from holding a public office);

- b) a matrix for the proactive selection of possible cases of conflicts of interest: developed in the last 12 months by ANI together with a local NGO, this matrix will apply to all public procurement procedures carried out by local public authorities through the Electronic Public Procurement System (the matrix uses a multi-entry search function and a risk scoring system in relation to violations of the rules on conflicts of interests will be identified); data and information to be submitted by the Agency for the Digital Agenda of Romania will be transmitted annually, according a signed protocol, and will refer to all biddings conducted etc.;
- c) a national survey on conflict of interest was launched in May 2017, in cooperation with the above-mentioned NGO, with a focus on Perceptions and attitudes of the population regarding the conflict of interest at central and local level in Romania and awareness-raising events are planned
- d) training sessions regarding the filling in of assets and interests disclosures through online and offline e-forms: 6 such sessions were organised on 24-26 May 2017 for over 250 contact persons in various administrations.

50. GRECO takes note of the above. The wealth of information submitted often refers to other subject matters than the concerns expressed in paragraph 53 of the Evaluation Report.

51. As regards specifically the first part of the recommendation, GRECO had already taken note of the development of the PREVENT system which was presented as a tool that would help better analyse the declarations submitted by Romanian officials. GRECO is of course pleased to see that this database has now become a reality but as the Romanian authorities point out themselves, “the objective of this system is to prevent conflicts of interest in the public procurement field”. The information provided in respect of the second part of the recommendation refers to further developments as regards ANI's working and data processing methods but again, mainly in relation to the detection of problematic situations in relation to public tenders. No further improved working methods appear to have been considered in relation to the detection of false declarations and dissimulated interests, unjustified wealth and so on. GRECO appreciates the efforts done to computerise the submission / filling of declarations but it remains unclear to what extent this has become a generalised practice that allows NIA to be more effective thanks to IT processing tools. The first part of the recommendation has not been considered in all its pertinent aspects.

52. As for the second part of the recommendation, GRECO recalls that the main underlying concern was the limited proven ability of NIA to identify by itself problematic declarations of assets and interests (without being informed by tips), and to forward cases for further investigation and prosecution. This part of the recommendation is specifically about the proactive monitoring of declarations, and not the general work of the ANI in many other fields, including in relation to the prevention of corruption in the context of public tenders and the management of EU funds, the organisation of awareness-raising and training events and partnerships with civil society for research purposes etc. GRECO appreciates the increased attention devoted to preventive aspects but overall, the specific objective of this second part of the recommendation has not been taken into consideration. Overall, Romania needs to pursue its efforts to implement the present recommendation and

the statistical information submitted by the authorities shortly before the adoption of the present report is not illustrative of decisive improvements<sup>14</sup>.

53. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

54. *GRECO recommended that the system of immunities of serving parliamentarians, including those who are also members or former members of government, be reviewed and improved, including by providing for clear and objective criteria for decisions on the lifting of immunities and by removing the necessity for prosecutorial bodies to submit the whole file beforehand.*

55. The Romanian authorities recall that the inviolability of MPs prevents only preventive measures ordered during criminal proceedings (detention, arrest and search) but not investigations and prosecutions more generally. They also provide information on the procedures and certain deadlines to be met in both chambers, which is un-related to the present recommendation.

56. GRECO recalls the underlying concerns expressed in paragraphs 60 and 61 of the Evaluation Report, in particular: absence of duty to motivate a decision on the lifting of immunity, lack of criteria to ensure the objectivity and impartiality of such decisions, in-depth review of the merits of a case (which is the role of the criminal justice bodies and not of parliament) which involves in practice<sup>15</sup> the communication of the whole file. Romania has clearly given no consideration at all to these issues. At the time of adoption of the present report, the Romanian delegation explained that as regards this last issue, an attempt was made already in 2013 at addressing in the Chambers' rules the requirements on information to be submitted by the prosecutorial authority; it was eventually overturned by the Constitutional Court (because of its excessively broad wording), which nonetheless concluded that it is enough for requests on immunities to be supported by a selection of information on facts and motives<sup>16</sup>. But this jurisprudence was not implemented in the rules of the Chamber to support the change of practice.

57. GRECO cannot disregard the general context in which conflicts are taking place, involving even leading personalities of the Parliament. The president of one of the chambers went so far as to issue in October 2016 (i.e. two months before the parliamentary elections) a statement criticising the general action of the National Anti-Corruption Directorate (NAD) and calling members of both chambers to refuse voting one way or another on DNA requests until the end of the legislature<sup>17</sup>. GRECO considers that such general statements clearly undermine the credibility and work of the criminal justice system, and contradict the anti-corruption standards of the Council of Europe on immunities<sup>18</sup>. It is recalled that decisions on the lifting of immunities must be taken on a case by case basis, having regard to the merits of each individual case. GRECO urges Romania to not aggravate the current situation any further and to implement the present recommendation.

58. GRECO concludes that recommendation viii has not been implemented.

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<sup>14</sup> Between 2015 and 2017, ANI imposed 1772 fines for failure to submit declarations of assets and interests in conformity with legal requirements.

<sup>15</sup> The authorities recall that there is no requirement to submit the whole file but doing so is still perceived as increasing the chances of a favourable decision.

<sup>16</sup> Decision no. 319/2013.

<sup>17</sup> <http://senat.ro/StiriSenatDetaliu.aspx?ID=DA135DD8-0EBC-47D6-9BC9-E351FA281581>

<sup>18</sup> Especially Committee of Ministers Resolution (97)24 on the twenty guiding principles for the fight against corruption, GP number 6.

Recommendation ix.

59. *GRECO recommended that the parliamentary authorities establish for their members i) a system of counselling through which parliamentarians can seek advice on integrity matters and ii) provide dedicated and regular training on the implications of the existing and yet-to-be adopted rules for the preservation of the integrity of parliamentarians, including the future Code of conduct.*
60. The Romanian authorities recall that in both chambers of Parliament, persons have been designated by Order of the General Secretary to advise MPs on declarations of assets and interests, in cooperation with the National Integrity Agency. The legal committees also have a role to play, through the Bureau of the chamber, to clarify a possible situation of incompatibility. The authorities also point out that in the Chamber of Deputies, there are persons specifically employed to advise members of the Chamber in matters related to integrity and that similar tasks are performed by the Legal Commission of the Senate.
61. GRECO takes note of the above information, which largely reflects the situation at the time of the on-site visit and has not improved since, to conclude that a dedicated function of counselling – as recommended – was put in place. Neither can GRECO conclude that any pertinent measures have been taken concerning training and awareness-raising for MPs.
62. GRECO concludes that recommendation ix has not been implemented.

*Corruption prevention in respect of judges and prosecutors*

Recommendation x.

63. *GRECO recommended that the Code of ethics for judges and prosecutors be complemented in such a way so as to offer proper guidance specifically with regard to conflicts of interest (e.g. examples and/or types), incompatibilities and accessory activities, impartiality and related areas (including notably the acceptance of gifts and other advantages, the conduct in private life).*
64. The Romanian authorities indicate that in 2016, within the project "Strengthening the capacity of the Romanian judicial system to respond to the challenges of new legislative and institutional changes", the Superior Council of Magistracy (SCM) developed a good practice guide on ethics and deontology. The document was designed as a tool for judges and prosecutors to better understand the various aspects of the profession, with an emphasis on practice. It provides an analysis of each article of the Code of Ethics for judges and prosecutors of 2005, covering "how to interpret" and "how to apply" the principle(s). Whenever possible, it provides examples of ethical problems and guidance for solving such situations, including in the light of foreign European experience. The guide (of which a copy in English was provided to GRECO) is publicly available and accessible on-line<sup>19</sup>. The authorities also confirm that it was disseminated to all the courts and prosecutor's offices.
65. GRECO is pleased to see that a guidance document was produced in 2016 to complement the code of conduct, which is another way of addressing the objectives of the present recommendation. The content of the document, with a focus on practical and concrete examples has a broad coverage which includes the subjects which occasionally appeared to be problematic during the on-site discussions. It complements usefully the other intended measures which had been announced in the Evaluation Report, including the establishment of a network of integrity

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<sup>19</sup> Link to the [practical guide](#) in Romanian; it is also published on the website of the National Institute of Magistracy.

councillors and as pointed out in paragraph 75, the code and the guide are both promoted at training events.

66. GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

Recommendation xi.

67. *GRECO recommended that the justice system be made more responsive to risks for the integrity of judges and prosecutors, in particular by i) having the Supreme Council of Magistracy and the Judicial Inspectorate play a more active role in terms of analyses, information and advice and ii) by reinforcing the role and effectiveness of those performing managerial functions at the head of courts and public prosecution services, without impinging on the independence of judges and prosecutors.*

68. The Romanian authorities recall in general terms the role of the Superior Council of Magistracy (SCM) as the guarantor of the magistrates' independence and impartiality and of their professional reputation (against external interference or other incidents), and as regards their compliance with the law and professional ethics. The authorities report that in recent years, the SCM has developed its proactive role, becoming not only a real guarantor of the independence of justice, but also an essential institution for strengthening the rule of law. They recall that the SCM has the right and the obligation, in accordance with art. 30 of the Law no. 317/2004, to act also ex officio in the above subject matters. They provide some comparative data for the years 2016 and 2017 (up until 1 April 2017) to illustrate the above:

Judicial Inspection	Number of requests to defend the independence of the judiciary		Number of requests to defend professional reputation, independence and impartiality	
	2016	2017	2016	2017
Year	2	11	9	13

69. In view of the recent proposals for amending the laws on the organisation of justice, the SCM formulated a series of proposals for amendments to the Law no. 317/2004, and after consulting the courts and prosecutor's offices attached to them, these were submitted to the Ministry of Justice on 24 April 2017 (see also recommendation xiii below), for subsequent consideration by the government by 30 June. In this context, the SCM has proposed to redraft article 30 of Law no. 317/2004 in a way that would spell out in greater detail the role and responsibilities of the SCM in respect of the preservation of judicial independence and integrity. In their latest information, the authorities refer to a joint declaration signed on 17 July 2017 by the President of the SCM, the President of the High Court of Cassation and Justice and the Prosecutor General, on adherence to the National Anticorruption Strategy 2016-2020. The SCM is currently holding consultations on developing a common integrity plan for the judiciary in the framework of the said Strategy. As regards specifically the prosecutors, a directorate entitled *Action B – Integrity of Prosecutors* exists within the Prosecutor's Office to the High Court of Cassation; one of its departments (created in 2014) has responsibility for evaluating the disciplinary situation and to identify risks and vulnerabilities within the prosecutorial services. A synthetic document covering the period 2012-2016 was drafted and will be disseminated to all prosecutors for educational and preventive purposes. In relation to the above Strategy, the Prosecutor General's Office has already produced specifically for the year 2016 a report on integrity incidents and a report on the implementation of institutional transparency and corruption prevention measures, for consideration by the SCM.

70. Also, in order to identify suitable solutions for improving the regulations regarding the defense of the independence of the judiciary, on 4 April 2017, the SCM analysed a series of proposals for amending and supplementing Decision no. 220/2011 on the Audiovisual Content Regulatory Code.
71. GRECO takes note of the above information. As regards the first part of the recommendation, the information provided is often irrelevant, with the exception of the recent agreement to develop a common integrity strategy for the judiciary. The consultations held by the SCM appear to be on-going and for the time being, concrete preparatory work has mostly been done by the Prosecutor's Office which has elaborated two analytical reports. These first steps appear to go in the right direction and GRECO is looking forward to the final results and measures agreed for the whole judiciary. This part of the recommendation has thus been partly addressed. The second part of the recommendation has clearly received no consideration at all. Some data is provided concerning a short period of time showing a mere increase in the number of requests for protection and action received by the SCM (which is not in itself indicative of a change of policy). For the rest, as shown in recommendation xiii, the government has apparently not taken any follow-up action on the proposals from the SCM issued in April 2017 and it would appear that the work undertaken in respect of the audio-visual regulations has not led to any concrete action up until now.
72. Overall, GRECO concludes that recommendation xi has been partly implemented.
- Recommendation xii.
73. *GRECO recommended increasing the training and awareness-raising efforts with regard to integrity and the preventive components of anti-corruption policies, including for judges and prosecutors in exercise.*
74. The Romanian authorities recall that judges and prosecutors benefit both from initial training (at the National Institute of Magistracy - NIM) and from in-service training:
- in the initial training, judicial ethics is a permanent discipline studied at NIM as part of the compulsory training program, with 11 seminars x 2 hours for the first year, and 2 seminars x 1.30 hours + 2 hours of conference on professional relationship between magistrates and lawyers for the second year. In their latest information, the authorities refer to a total of more than 40 hours devoted to the subject during the two-years training. Reference texts used for these activities include the Code of Ethics and the newly adopted Practical Guide (see recommendation x). NIM continued the series of extracurricular activities entitled "Auspicious Encounters", dedicated to candidate-magistrates from the first and second years, with three events organised with the support of the Embassy of the Kingdom of the Netherlands in Romania and Expert Forum Romania, on 28 February, 1 March and 13 March 2017, as well as a dialogue with a director and screenwriter on April 20, 2017. The events were circumscribed in the field of professional ethics and deontology and consisted of projections of short documentary films made by a Dutch journalist together with Dutch representatives of different professions (psychiatrists, journalists, doctors, politicians and magistrates); trainees also had an opportunity to attend further extra-curricular activities such as the ones organised under the project *Justice 2020* mentioned below.
  - as regards in-service training, the authorities indicate that within the project *Justice 2020: Professionalism and Integrity* the NIM has developed a training



program dedicated to the judicial professions' integrity; in total, in 2016-2017, 41 activities were organised in the field of promotion of integrity, including two conferences on ethics and professional deontology and 23 regional seminars on "Ethics and professional deontology" organised in cooperation with the courts of appeal in the period of March – October 2017 alone. More than 600 practitioners benefit each year from these activities NIM has also been organising "Summer School" sessions for 13 years and starting in 2009, a topic has been "Ethics and Deontology". The program consists of a 5 days seminar. In 2016, it was attended by approximately 40 judges, prosecutors and, for the first time, auditors from Romania or other European countries.

75. GRECO takes note of the above information. As regards the initial training, the information submitted shows that the volume of hours devoted to the subject in the *curriculum* has apparently increased (36 hours at the time of the visit, more than 40 hours at present). GRECO is pleased to see that the code of ethics and the new accompanying guidance document are used as reference material. As regards in-service training, the information submitted shows that a new programme has been developed on the judicial professions' integrity, which also reaches out to practitioners at regional level.
76. GRECO concludes that recommendation xii has been implemented satisfactorily.

*Corruption prevention in respect of prosecutors specifically*

Recommendation xiii.

77. *GRECO recommended that the procedure for the appointment and revocation for the most senior prosecutorial functions other than the Prosecutor General, under article 54 of Law 303/2004, include a process that is both transparent and based on objective criteria, and that the Supreme Council of Magistracy is given a stronger role in this procedure.*
78. The Romanian authorities indicated in their initial submission of information of 5 July that in the context of the legal amendments referred to under recommendation xi, the Superior Council of Magistracy (SCM) has proposed to amend the procedure for appointing prosecutors in senior management functions according to law 303/2004, by extending their mandate from 3 to 4 years and by increasing the SCM's role in the selection of candidates, as opposed to the current procedure in which the Minister of Justice selects and proposes the candidates. The proposals have been submitted for consideration to the Ministry of Justice. The proposals for amendments include the following:

*Article 54 of law 303/2004 – new wording proposed by the SCM*

*(1) The Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, his first deputy and his deputy, the chief prosecutor of the National Anticorruption Directorate and of the Directorate for the Investigation of Organized Crime and Terrorism, and their deputies are appointed by the President of Romania, at the proposal of the Superior Council of Magistracy, with the opinion of the Minister of Justice, of the prosecutors who have a minimum seniority of 18 years in the position of judge or prosecutor, have not been sanctioned for disciplinary reasons and have not violated the Code of ethics. The appointment is for a period of 4 years, with the possibility of reinvesting once.*

79. In the update submitted on 13 November, the authorities merely refer to the fact that on 31 October 2017, a legislative proposal for amending and supplementing Law no. 303/2004 on the status of judges and prosecutors, was initiated by 10 deputies and senators and submitted to the Chamber of Deputies. This proposal

aims at providing the Superior Council of Magistracy (SCM) a stronger role for the appointment to and revocation from the senior prosecutorial functions. However, the procedure for the appointment of a) the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, b) his first deputy and deputies, c) the chief prosecutor of the National Anticorruption Directorate, the chief prosecutor of the Directorate for the Investigation of Organized Crime and Terrorism and d) their deputies, remains the same as the one stipulated by the legislation currently in force.

80. Regarding all the other senior prosecutorial functions, the appointment is proposed to be done exclusively by the Section for Prosecutors of the SCM. The legislative proposal submitted to the Chamber of Deputies also stipulates that the revocation of the prosecutors from all the senior prosecutorial functions is done exclusively by the Section for Prosecutors of the Superior Council of Magistracy.
81. GRECO takes note of the information submitted by the Romanian authorities. It understands that the above proposal from the Superior Council of Magistracy (SCM), mentioned in Romania's submission of information in June 2017, was not endorsed by the government despite the fact that it addressed underlying concerns which had led to this recommendation.
82. GRECO cannot disregard the fact that subsequently to the information provided to GRECO in June, the government presented in August 2017 a legislative proposal / package on the judiciary, which led to yet another wave of massive protests and negative reactions, considering that the proposals were a threat to the independence of the judiciary. The profession of magistrates largely joined the protests. In a move described as unprecedented, more than half of Romanian judges and prosecutors signed a memorandum calling to abandon this legislative project, pointing out that it had been launched without proper prior consultations, impact assessments, details on the content and motives etc. The proposals aimed at giving a more central role to the Government, i.a. by abolishing the involvement of the President in appointments (and thus giving a greater responsibility to the Minister of Justice) and by integrating the judicial inspectorate under the umbrella of the Ministry of Justice.
83. Bearing in mind the specific purposes of the present recommendation xiii, these proposals appeared to take at first sight the opposite direction. On 19 October 2017, media reported that the controversial draft proposals of the government – despite largely negative opinions – were still going to Parliament<sup>20</sup> and in the beginning of November 2017, public protests (involving also opposition parties and personalities) against the proposals in Parliament, were reported in Romanian media<sup>21</sup>. On 16 November, the situation appears as follows on the website of the Chamber of Deputies: three legislative proposals<sup>22</sup> have been registered on 31 October, which require a report from the government, the SCM and other bodies within 9 days. The use of the emergency procedure is to be applied to the three texts, despite earlier and on-going criticism with regard to the procedure followed (this is also a specific concern from GRECO – see recommendation i). All three proposals are registered as parliamentary initiatives stemming from the same group of 10 MPs (and not as governmental proposals). None of these is

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<sup>20</sup> <https://www.romania-insider.com/draft-law-justice-laws-parliament/>

<sup>21</sup> <https://www.romania-insider.com/protests-take-place-romaniyas-biggest-cities-new-changes-justice-laws/>

<sup>22</sup> - PI-x 417/31.10.2017 – legislative proposal amending law nr.304/2004 on the organisation of the judiciary  
- PI-x 418/31.10.2017 – legislative proposal to amend and complement law nr. 303/2004 on the statute of judges and prosecutors  
- PI-x 419/31.10.2017 – legislative proposal to amend and complement law nr. 317/2004 on the organisation and functioning of the Superior Council of Magistracy

accompanied by an explanatory report but by a mere presentation of motives of one page.

84. GRECO also cannot disregard the fact that these amendments are taking place in a particularly conflictual context marked by allegations of institutional manipulation and of intimidation of the judiciary, already observed at the time of the on-site visit (see also the contextual information under recommendations i and viii). Against this background, it would appear that the draft amendments signalled by the Romanian authorities, introduced in Parliament on 31 October 2017 for amending and supplementing Law no. 303/2004 on the status of judges and prosecutors, maintain the current status quo with regard to the role of the executive in the appointment of senior prosecutors. Thus, no action is being considered in response to the recommendation from that perspective specifically. On the other side, it is now proposed that the revocation of the prosecutors from all the senior prosecutorial functions would be decided exclusively by the SCM. This is the only partial progress that appears, at first sight, to address part of the present recommendation. However, since other relevant factors might come into play, a proper assessment of the impact of the proposed reform would require careful consideration of the various changes contemplated by the three draft laws, including in respect of the Judicial Inspection. Especially because of the frequent and controversial changes of approach observed in Romania in recent months on such an important reform. GRECO also regrets that the expedited procedure is being applied to these texts, and that these are not accompanied by proper explanatory and supporting documentation. Overall, GRECO cannot conclude that the present recommendation has been implemented even partly.
85. GRECO concludes that recommendation xiii has not been implemented.

### III. CONCLUSIONS

86. In the light of the foregoing, GRECO concludes that Romania has satisfactorily implemented or dealt satisfactorily with only two of the thirteen recommendations contained in the Fourth Round Evaluation Report. Four further recommendations have been partly implemented and seven have not been implemented.
87. More specifically, recommendation xii has been implemented satisfactorily and recommendation x was dealt with in a satisfactory manner. Recommendations ii, v, vii and xi have been partly implemented and recommendations i, iii, iv, vi, viii, ix and xiii have not been implemented.
88. Where members of parliament are concerned, the main initiative taken is the adoption of a code of conduct in October 2017, which has been on since July 2013. This Code now also aims to regulate gifts and other benefits, and the management of conflicts of interest arising ad hoc; despite these positive developments, the rather broad wording of the Code and inconsistent rules for its enforcement prevent it from providing a fully satisfactory framework in those areas. One of the tasks of the National Integrity Agency (NIA) is to control declarations of assets and interests but although its working methods and data processing capabilities are progressively being improved, GRECO has not received any evidence demonstrating that proper consideration was given to improving NIA's commitment and pro-activity in this specific area. NIA has also assessed the implementation in practice of decisions and sanctions on incompatibilities and conflicts of interest, as expected, and further initiatives are being taken to ensure effective implementation of decisions and sanctions in that area. But it would appear that the country has not yet drawn all the consequences from the study finalised in June 2017: it still happens that elected officials remain in a situation of incompatibility and that court decisions are

not enforced, for instance. Similarly, in the absence of meaningful action taken by Romania, the legislative process remains an area of particular concern given the persisting controversies and allegations of improper consultation, the excessive use of expedited procedure, and the lack of transparency.

89. The same limited decisive action is also observed as regards reforms relating to judges and prosecutors. A guidance document was adopted in 2016 to support the practical implementation of the Code of Conduct for judges and prosecutors, and efforts have been made to raise their awareness on integrity issues. Measures to make the justice system more responsive to integrity risks are at an early stage, in particular when it comes to having the Supreme Council of Magistracy (SCM) and the Judicial Inspectorate play a more active role in terms of analyses, information and advice and by reinforcing the role and effectiveness of those performing managerial functions at the head of courts and public prosecution services. GRECO also regrets the absence of tangible action to ensure that the appointment and revocation for the most senior prosecutorial functions include a process that is both transparent and based on objective criteria. The SCM also needs to play a stronger role in this procedure. The year 2017 is marked by a number of proposals and counterproposals concerning appointments, the disciplinary procedure and other aspects. Some of these are perceived as an attempt to undermine the independence of the judiciary and GRECO is concerned by the extent of public criticism. It would appear that three draft laws have been registered by Parliament on 31 October, for adoption by using the expedited procedure. This is regrettable since their actual implications for GRECO's recommendations and possibly other subject-matters covered by the Fourth Round Evaluation Report are not quite clear at this stage. GRECO will need to examine the impact of these laws in greater detail when adequate information becomes available and can be analysed. It notes that on 29 November, the Prosecutor General has issued a public statement<sup>23</sup> in which he voiced criticism against various proposals including that the Judicial Inspection would be moved away from the SCM, the establishment of a specialised (prosecutorial) directorate to investigate magistrates, the tightening of the conditions for the magistrates' material liability for judicial errors.
90. In the light of the foregoing, GRECO considers that the measures taken by the Romanian authorities to implement the recommendations set out in the Fourth Round Evaluation Report are very limited. It concludes that the currently very low level of compliance with the recommendations is "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3, of its Rules of Procedure. Accordingly, GRECO decides to apply Rule 32 in respect of members not in compliance with the recommendations contained in the mutual evaluation report and calls on the head of the Romanian delegation to submit a report on its progress in implementing the recommendations still pending (i.e., recommendations i, ii, iii, iv, v, vi, vii, viii, ix, xi, and xiii as soon as possible and at the latest by 31 December 2018, pursuant to Rule 32, paragraph 2(i).
91. In addition, in line with Rule 34 paragraphs 2 and 3, GRECO requests the head of delegation to submit information concerning the amendments carried by the draft laws mentioned in footnote 22 by 15 January 2018, in the perspective of an ad hoc report.
92. GRECO invites the authorities of Romania to authorise, at their earliest convenience, the publication of this report, to translate it into the national language and to make it publicly available.

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<sup>23</sup> [https://www.stiripesurse.ro/pg-lazar-maintains-existence-of-exclusive-interest-to-give-executive-control-tools-over-justice\\_1234634.html](https://www.stiripesurse.ro/pg-lazar-maintains-existence-of-exclusive-interest-to-give-executive-control-tools-over-justice_1234634.html)