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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

HUNGARY

Adopted by GRECO at its 76th Plenary Meeting
(Strasbourg, 19-23 June 2017)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Hungary to implement the recommendations issued in the Fourth Round Evaluation Report on Hungary which was adopted at GRECO's 67th Plenary Meeting (27 March 2015) and made public on 22 July 2015, following authorisation by Hungary ([Greco Eval IV Rep \(2014\) 10E](#)). 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 authorities of Hungary submitted a Situation Report on measures taken to implement the recommendations. This report was received on 31 January 2017 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Austria and Romania to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Christian MANQUET, on behalf of Austria and Mr Andrei FURDUI, on behalf of Romania. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The 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 recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

5. GRECO addressed 18 recommendations to Hungary in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. In respect of recommendations i to vi, the authorities state that they examined their legal framework and compared it to that of other Council of Europe member states. According to them, the current legislation provides for comparable safeguards to those of other countries and therefore they do not envisage an overall reform but the fine-tuning and supplementing of it.
7. As it is traditionally for political groups to propose amendments to the status and remuneration of MPs, a report containing GRECO's recommendations, the legislation in force, international practices and the possible way forward was submitted for interparty consultation. So far, only one party has responded and only when all parties have made their positions known, will negotiations start with the aim of achieving at least a two-thirds majority in line with Article 4 paras. 2 and 5 of the Fundamental Law (Constitution).
8. Furthermore, the authorities indicate that guidelines on the rules of conduct of MPs are under preparation. They will include the rules of conduct relating to the work of the National Assembly and the participation in plenary sessions and committee meetings, as well as the detailed rules on conflicts of interest, asset declarations, activities and positions to be notified by MPs to the Speaker of Parliament, receiving gifts and other relevant issues, supplemented by a commentary. The authorities underline that, during the time of revision of current legislation and guidelines, the National Assembly and its bodies continue to ensure the implementation of the legislation currently in force.

Recommendation i.

9. *GRECO recommended (i) to ensure that all legislative proposals are processed with an adequate level of transparency and consultation and, (ii) that rules be introduced for members of parliament on how to interact with lobbyists and other third parties seeking to influence the parliamentary process.*
10. The Hungarian authorities have not provided any details in respect of this recommendation, in addition to the information provided in paragraphs 6-8.
11. GRECO takes note of the general information provided by the authorities, which is also meant to cover this recommendation. However, it does not provide any explanations as to what has been done to ensure that legislative proposals are processed with an adequate level of transparency and consultation, nor does it give any indication that concrete steps have been taken to introduce rules on how MPs interact with lobbyists and other third parties. That said, GRECO notes that a reflection process is still ongoing within the Government.
12. GRECO concludes that recommendation i has not been implemented.

Recommendation ii.

13. *GRECO recommended that a code of ethics/conduct for members of parliament be adopted, including in respect of their staff as appropriate – covering various situations of conflicts of interest (gifts and other advantages, third party contacts, lobbyists, accessory activities, post-employment situations, etc.) and that it be complemented by practical measures for its implementation, such as dedicated training and counselling.*
14. The Hungarian authorities report that guidelines to the rules of conduct of MPs are under preparation, which will cover a number of issues relating to conflicts of interest, etc. (see paragraphs 6-8).
15. GRECO takes note of the above information whereby guidelines on the rules of conduct applicable to MPs are under preparation. They are to include rules relating to conflicts of interest and a commentary. GRECO welcomes the fact that steps have been initiated to bring together rules/guidelines applying to MPs in this area. However, at present no concrete results have been achieved.
16. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

17. *GRECO recommended that a requirement of ad hoc disclosure be introduced for members of parliament for situations of personal conflicts of interest which may emerge during the parliamentary proceedings and that rules for such situations be developed.*
18. The authorities report in accordance with the general information provided in paragraphs 6-8.
19. GRECO notes that the Evaluation Report takes the view that the regulations as they stand do not deal with situations where an MP is concerned personally in matters dealt with in Parliament, whether related or not to a financial interest. Regulations on this matter should be based on personal conflicts of interest and include an obligation for MPs to make *ad hoc* declarations whenever such situations occur.

GRECO looks forward to tangible results in the form of clear regulations/guidelines in respect of this recommendation.

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

Recommendation iv.

21. *GRECO recommended to ensure (i) that the obligation upon members of parliament to disclose outside occupations and activities of a non-financial character are applied in practice; and (ii) that all declarations as submitted follow a format, which allows for adequate public scrutiny over time, preferably by using electronic means.*
22. The authorities report in accordance with the general information provided in paragraphs 6-8.
23. GRECO notes from the information provided by the authorities that the future guidelines on the rules of conduct of MPs are to cover the issues raised in the first part of this recommendation, but so far nothing concrete has been reported. The second part of the recommendation requires that steps be taken to ensure that all asset declarations adopt the same format to facilitate public scrutiny, but there is no information on this aspect.
24. GRECO concludes that recommendation iv has not been implemented.

Recommendation v.

25. *GRECO recommended that appropriate measures be taken in order to ensure that the procedures of lifting the immunity of parliamentarians do not hamper criminal investigations in respect of members of parliament suspected of having committed corruption related offences.*
26. In addition to the above general information on recommendations i to vi (paragraphs 6-8), the authorities underline in respect of recommendation v that current legislation allows the prosecution of MPs who have committed corruption offences whilst taking into account the need to guarantee MPs' freedom to exercise their mandate. They also consider that the fact that the Committee on Immunity, Incompatibility, Discipline and Mandate Control consists of MPs from the governing party and the opposition in equal numbers also ensures that the decisions on the lifting of immunity and matters relating to conflicts of interest and asset declarations are politically impartial and objective. The authorities also mention that at least one political party would be in favour of doing away with MPs' immunities.
27. Finally, they indicate that the National Assembly lifted the immunity of an MP on 12 September 2016, and that, since 2010, the immunity of MPs accused of committing a criminal offence has always been lifted within a short period of time, regardless of which political party they belong to. According to them, immunity and the procedure for lifting it thus do not constitute an obstacle to criminal proceedings.
28. GRECO takes note of the information provided by the authorities. It recalls that the Evaluation Report underlines that the immunity of MPs, insofar as it goes beyond their protection of free speech, opinions and voting in Parliament, may present important obstacles to an efficient enforcement of criminal provisions. Even if the immunity of MPs is regularly lifted by Parliament, the procedure for doing so might prevent law enforcement agencies from carrying out rapid investigations. The fact that MPs are aware of the ongoing procedure may also create an additional obstacle to the gathering of evidence. Early interventions and the use of investigative measures are particularly important when investigating corruption offences. GRECO

notes that in addition to the rather detailed information about cases involving the lifting of immunities in recent years, referred to in the Evaluation Report, the authorities have now mentioned another case where an MP's immunity was lifted. It also follows from the reply that one political party would favour abolishing MPs' immunity. The GET recalls that the recommendation is not about the existence of MPs' immunity as such, but ensuring that the procedures for lifting such privileges do not hamper the criminal investigations (e.g. through unnecessary delays). In this respect no new substantial information has been provided.

29. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

30. *GRECO recommended that appropriate measures be taken to ensure effective supervision and enforcement of the existing and yet to be established rules on the conduct, conflicts of interest and interest declarations of members of parliament and that adequate and proportionate sanctions be introduced to that end.*
31. The authorities refer to the information contained in paragraphs 6-8.
32. GRECO notes that the general information provided by the authorities does not refer to measures to ensure effective supervision and enforcement of the rules on the conduct, conflicts of interest and interest declarations of MPs or associated sanctions. Therefore, no visible progress has been achieved for the implementation of this recommendation.
33. GRECO concludes that recommendation vi has not been implemented.

Recommendation vii.

34. *GRECO recommended that the parliamentary authorities establish dedicated and regular training for members of parliament on issues such as ethics and conduct in situations of conflicts of interest and corruption prevention.*
35. The authorities indicate that the Office of the National Assembly has developed an e-learning programme entitled "Integrity Management", which has been made available to MPs since May 2017. The e-learning training provides a continuous and regular training opportunity and as such is available to new MPs. The core modules, of 60 pages each, cover ethics, prevention of corruption and conduct in cases of conflict of interest and expand on the findings of GRECO's evaluation report. MPs have access to the e-learning programme through the National Assembly's intranet. The MPs' answers to the multiple-choice questions are made anonymous, but they have to give a correct answer to most of the questions in order to successfully complete the e-learning programme. MPs can answer the knowledge check questions multiple times and will be given a new set of questions each time. The programme will remain open indefinitely so that MPs who join the National Assembly later, for example through interim elections, will also be able to complete the training programme.
36. GRECO welcomes the setting up of an e-learning training programme on ethics, conflict of interest and corruption prevention for both new and serving MPs. GRECO invites the authorities to keep under review how often the training programme has been followed and, depending on the results, to take steps to promote it.
37. GRECO concludes that recommendation vii has been implemented satisfactorily.

Corruption prevention in respect of judges

Recommendation viii.

38. *GRECO recommended that the powers of the President of the National Judicial Office to intervene in the process of appointing and promoting candidates for judicial positions be reviewed in favour of a procedure where the National Judicial Council is given a stronger role.*
39. The authorities submit that the assessment of applications to judicial positions is a complex procedure, including the local judicial councils and the National Judicial Council (NJC). They claim that the President of the National Judicial Office (PNJO) does not have the most important role in this process and refer to the appointment procedure, as detailed in the Evaluation Report (paragraphs 103-108). In case the PNJO wishes to change the order of appointment among the three candidates listed by a judicial council, the NJC is to give its consent. The authorities add that in practice, the NJC regularly uses its right of veto against such changes.
40. As to the possibility of the PNJO declaring an appointment procedure unsuccessful, the authorities refer to section 20 of Act CLXII of 2011 on the Legal Status and Remuneration of Judges (ALSRJ), which provides the reasons for such a declaration, e.g. that no applications were received or that all applicants were rejected; that the PNJO does not support any of the candidates; that conflicts of interest (for example, between a candidate and serving judges in the pertinent court) arise; that the reasoning of a judicial council is deemed insufficient; or as a result of changes in work situations, workloads of courts.
41. Since 2014, the NJO keeps track of the reasons why an application process was declared unsuccessful and decisions were always based on reasons defined by law. Further, the PNJO's reports to the NJC about his/her practice regarding the assessment of application processes, which were accepted each year by the NJC.
42. GRECO takes notes of the information provided by the authorities. Furthermore, GRECO recalls that it was already acknowledged in the Evaluation Report that the selection procedure was enhanced by providing the NJC with stronger supervision functions, but that it would be more appropriate that the NJC, being the highest collective body of the judiciary, have the final say to recommend candidates for judicial positions for appointment, rather than the PNJO (a high ranking administrative official).
43. More specifically, the possibility for the PNJO of declaring unsuccessful and thus blocking the appointment of a candidate who has been given priority by a judicial council and/or the NJC has also been noted in the Evaluation Report. From the information now provided by the authorities, GRECO is still convinced that there are risks of discretionary decisions with the current structure as, for example, the selection procedure may be considered unsuccessful if the PNJO does not support any of the applicants (Section 20 (1)a ALSRJ) put forward by a judicial council or the NJC.
44. Therefore, the information provided by the authorities confirms what was already stated in the Evaluation Report, namely that the involvement of the PNJO in judicial appointment procedures has been balanced to some extent by a stronger supervisory function of the NJC. However, the new information of the authorities does not remedy the findings of the Evaluation Report that it would be advisable that the NJC, as the highest collective body of the judiciary, be given the final say on recommendations for appointment and also that the involvement of the PNJO in this process has the potential of introducing discretionary and biased decisions by a single official in the selection process.

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

Recommendation ix.

46. *GRECO recommended that the evaluation system of judges employed for an indefinite period of time be reviewed in order to provide for equal treatment of all judges and to disconnect these evaluations from consequences that may have a negative impact on judicial independence and integrity, such as disciplinary proceedings, dismissal and salary adjustments.*
47. The authorities indicate that the President of NJO adopted Decision No. 8/2015 (XII. 12.) on the Regulation on the Evaluation Procedure of Judicial Performance and the Criteria of Evaluation (hereafter, the regulation) since the adoption of GRECO's Evaluation Report. The main aim of the regulation is to ensure the uniformity of the structure and substance of evaluation reports as well as the level of their professional quality, regardless of the level of jurisdiction and the type of cases the evaluated judge deals with. Since the adoption of the regulation, the same criteria are to be applied in the evaluations of judges appointed for a definite term and those appointed for an indefinite term. The evaluations are carried out by the head of the relevant professional division, or by a senior judge with at least five years of judicial practice and with the necessary professional experience.
48. The authorities also report that the evaluations of judges appointed for an indefinite period, irrespective of the level of jurisdiction, are to be based on predetermined criteria and carried out in a regulated procedure in which the rights and duties of each stakeholder are defined as well as the timeframe of the process. In accordance with the above-mentioned regulation, the judge carrying out the examination hears the evaluated judge who also has the right to communicate his/her opinion while the process is still ongoing. Judges who are not satisfied with their evaluation can turn to the Service Tribunal and ultimately to the Constitutional Court.
49. The authorities clarify that neither the ALSRJ nor the aforementioned regulation contains rules according to which the result of the evaluation could result in a disciplinary procedure against the evaluated judge; there is no direct connection between these evaluations of judges and the initiation of a disciplinary procedure. The authorities also clarify that the promotion of judges to a higher pay grade is not directly linked to the evaluations, as such decisions are based on many aspects amongst which the result of the assessment is only one factor.
50. GRECO welcomes the adoption of the new Regulation on the Evaluation Procedure of Judicial Performance and Criteria of Evaluation whose aim is to ensure a uniform approach which, as noted in the Evaluation Report, was lacking. It takes note of the clarification made by the authorities that evaluation procedures and disciplinary proceedings are not formally linked. The same goes for promotions to higher pay grades.
51. GRECO welcomes the fact that a new regulation has been put in place to ensure equal treatment of judges undergoing evaluations. GRECO is also pleased that it has been made clear that the performance evaluations are not connected to measures such as disciplinary proceedings. Although GRECO has doubts about a system of discretionary decisions to upgrade judges' pay levels, it has been made clear that the evaluations are not directly connected thereto but are part of several aspects to be taken into account by the collective body of the judiciary making recommendations on such matters.
52. GRECO concludes that recommendation ix has been dealt with in a satisfactory manner.

Recommendation x.

53. *GRECO recommended that the power of the President of the National Judicial Office to re-assign ordinary judges without their consent be reduced to a minimum in time and only for precise and particular reasons of a temporary character.*
54. The authorities indicate that the procedure for re-assigning judges to another court, including without their consent, follows the same rules whether the re-assignment is decided by the president of a regional court or the PNJO. The difference resides in the fact that the president of a regional court can only re-assign a judge within the court's territorial jurisdiction whereas the PNJO can re-assign them outside the jurisdiction of the regional court.
55. The authorities recall that the possibility of temporary seconding a judge without his/her consent for one year within a three-year period to ensure the even distribution of workload between courts was challenged before the Constitutional Court in 2013, which rejected the petition. They also emphasise that the temporary replacements who are temporarily absent (e.g. childcare or health reasons) at smaller courts cannot be managed efficiently by other means. They add that the ALSRJ (paragraph 32, section 3) lists the circumstances under which a judge cannot be temporarily re-assigned without his/her consent: (i) during pregnancy and until the child is three years old; (ii) if the judge is a single parent; (iii) if the judge looks after a dependent relative; (iv) in the event the judge suffers from a long-term illness or serious health deterioration.
56. According to the ALSRJ, judges can contest their temporary secondment before the administrative and labour courts. The authorities highlight that the PNJO has not re-assigned any judge without his/her consent since 2012.
57. Finally, they indicate that in order to harmonise the practice of temporary secondment on a national level, the drafting of an internal regulation on temporary secondment has started in 2016, which will contain binding regulation for the presidents of the regional courts and the PNJO.
58. GRECO does not consider that the information provided by the authorities can lead it to a different finding¹ than the one in the Evaluation Report which expressed concern that it should be possible to transfer a judge as often (every three years for up to one year) given that the irremovability of judges is an important feature of their independence; the threat to move a judge from one court to another may be used to exercise pressure on a particular judge, or to ensure that a judge deals or does not deal with cases at a particular court.
59. GRECO concludes that recommendation x has not been implemented.

Recommendations xi and xiii.

60. *GRECO recommended that the Code of Ethics for Judges be subject to further considerations and revision, with a view to enhancing the guidance in respect of conflicts of interest and other integrity related matters, such as gifts, recusal, third party contacts, etc. (Recommendation xi)*

¹ See also Venice Commission opinion on the Cardinal Acts that were amended following the Opinion CDL-AD(2012)001, pp. 21-22 (CDL-AD(2012)020, pp. 11-12.

61. *GRECO recommended that training on ethics for judges (including lay judges as appropriate) be introduced as a follow-up to the adoption of the Code of Ethics for Judges. (Recommendation xiii)*
62. The authorities indicate that in Decision No. 11/2015. (II.10.) OBT on the adoption of the Code of Ethics, the NJC established procedural rules according to which any judge can ask the NJC to issue an opinion on the interpretation and application of the Code of Ethics. The NJC has adopted five such opinions.²
63. The authorities furthermore state that the Code of Ethics does not regulate in detail every action of judges and it was therefore decided to complement it with other regulations. As a result, after consulting judges and court staff anonymously and a conference with presidents of courts, the Regulation on the Integrity of Courts was adopted by the PNJO³ and entered into force on 1 July 2016. It applies to all judges⁴ and court staff. While setting the same goals as the Code of Ethics, it regulates questions related to integrity with a special emphasis on conflicts of interest. It also tackles the issue of gifts, thus bridging the gaps identified by GRECO in relation to the Code of Ethics.
64. Since the Code of Ethics came into force on 1 January 2015, the authorities report that numerous training sessions have taken place at the local and national levels. The Code of Ethics was the topic, or amongst the topics, of 13 national training sessions (630 participants) and 59 local training sessions (6 246 participants).
65. GRECO welcomes the adoption of the Regulation on Integrity of Courts to supplement the Code of Ethics in areas such as conflict of interest and gifts. It considers the possibility for judges to seek clarification from the NJC on certain specific issues as a useful tool to clarify the interpretation of the contents of the Code of Ethics.
66. GRECO takes note of the training organised for judges specifically on the Code of Ethics both at the national and local levels and invites the authorities to ensure that dedicated training efforts be sustained over time.
67. GRECO concludes that recommendations xi and xiii have been implemented satisfactorily.

Recommendation xii.

68. *GRECO recommended that the immunity of ordinary judges be limited to activities relating to their participation in the administration of justice (“functional immunity”).*
69. The authorities state that the National Judicial Office is of the opinion that it is necessary to maintain the immunity of judges in its current form in order to protect judges and the judiciary from harassment through unfounded accusations, including from persons initiating private prosecutions against judges for alleged minor offences. The authorities do not see a need to limit the current immunity to functional immunity, similar to that of lay judges, who only work part time.
70. GRECO takes note of the information provided by the authorities. It recalls from the Evaluation Report that a number of judges met on-site interpreted the current immunity protection as a privilege of an honourable character, rather than a necessary protection, and GRECO is not convinced that the position of the NJO reflects a real need for such far going immunity. In any event, the Evaluation Report,

² Opinions of the NJC concerned the right of judges to express their opinion and to freely assemble; the requirements on conduct with other court employees; expressing an opinion about the decisions of higher courts and expressing an opinion in the social media.

³ Decision No. 6/2016. (V. 31.) of the President of the NJO.

⁴ It creates an obligation on the President of the Kuria to also adopt an integrity regulation.

in line with GRECO practice, underlines that “functional immunity” appears sufficient to protect judges from inappropriate disturbance in carrying out their duties. Irrespective of the differences that there may be between lay judges and full-time judges, GRECO maintains its view that this immunity should be limited to the extent strictly necessary to carry out a judge’s functions.

71. GRECO concludes that recommendation xii has not been implemented.

Corruption prevention in respect of prosecutors

Recommendation xiv.

72. *GRECO recommended that i) the possibility to re-elect the Prosecutor General be re-considered and ii) the possibility to maintain the Prosecutor General in office after the expiry of his/her mandate by a minority blocking of the election in Parliament of a successor be reviewed by the Hungarian authorities.*
73. The authorities report that the Ministry of Justice together with the Office of the Prosecutor General examined the possibility to implement this recommendation. The Ministry of the Interior circulated GRECO’s report to all high-level stakeholders (state secretaries of relevant ministries, prosecutor general, PNJO, the president of the NJC, the deputy speaker of the National Assembly, the chair of the National Assembly Committee on Immunity, the director of the Office of the National Assembly) who were asked to report back in writing. Following this consultation, a senior expert meeting was organised by the Ministry of the Interior. The authorities underline that the term of office of the Prosecutor General is regulated in the Fundamental Law. A two-thirds majority is needed in the National Assembly to be elected, which they consider to be a guarantee of independence and a safeguard of the separation of powers. Therefore, the authorities do not consider that the possibility of re-electing the Prosecutor General poses any risk nor that legislation should be amended.
74. As to the possibility of maintaining the Prosecutor General in office after the expiry of his/her mandate, the authorities state that the prosecution service must be able to uninterruptedly carry out its duties - which means that the office of the Prosecutor General should not be vacant for a long time - and to pass decisions without restriction during interim periods.
75. GRECO takes note of the information provided by the authorities, indicating that they have considered this recommendation (in its entirety) and decided not to take any measures. GRECO accepts that consideration of the first part of the recommendation has taken place. Insofar as the second part of the recommendation is concerned, GRECO notes that the pertinent regulation - allowing the sitting Prosecutor General to remain in office for an indefinite period of time if new elections are being blocked by a minority in Parliament - has not been subject to any review by the Hungarian authorities.
76. GRECO concludes that recommendation xiv has been partly implemented.

Recommendation xv.

77. *GRECO recommended that the removal of cases from subordinate prosecutors be guided by strict criteria and that such decisions are to be justified in writing.*
78. The authorities indicate that, to implement this recommendation, Decree of the Prosecutor General No. 12/2012 (VI. 8) on the organisation of the Prosecution Service was supplemented by a new provision (60/A) which provides that in case a criminal or administrative case is taken away from a prosecutor, the brief reason of the removal must be indicated in the case file.
79. GRECO welcomes that the reason for removing a case from a prosecutor must now be confined in the case file. That said, there is no information as whether strict criteria have been put in place to avoid arbitrary decisions. Therefore, the recommendation cannot be considered as fully implemented.
80. GRECO concludes that recommendation xv has been partly implemented.

Recommendation xvi.

81. *GRECO recommended that the immunity of public prosecutors be limited to activities relating to their participation in the administration of justice ("functional immunity").*
82. The authorities report that they consider it necessary to maintain the broad immunity of prosecutors in its current form in order to protect them from harassment by way of groundless accusations.
83. GRECO recalls the reasons detailed in the Evaluation Report for limiting the immunity of prosecutors to the extent strictly necessary, "functional immunity" and regrets that no measures have been taken to this end by the Hungarian authorities.
84. GRECO concludes that recommendation xvi has not been implemented.

Recommendation xvii.

85. *GRECO recommended that disciplinary proceedings in respect of prosecutors be handled outside the immediate hierarchical structure of the Prosecution Service and in a way that provides for enhanced accountability and transparency.*
86. The authorities state that the current disciplinary proceedings are safeguarded by adequate guarantees as the law allows an objection on the grounds of bias to be filed against the person exercising disciplinary powers or the disciplinary commissioner if s/he cannot be expected to participate in the disciplinary proceeding impartially and that there is a right to appeal against a disciplinary decision before a court.
87. They add that the Prosecution Service has changed its practice regarding disciplinary proceedings. At a training session taking place in May 2016, it was recommended to county chief prosecutors that a disciplinary commissioner be engaged in all disciplinary proceedings, while the law currently makes it optional. The authorities have stated that in most cases disciplinary commissioners were appointed by the prosecutor exercising disciplinary powers. While commissioners investigate the disciplinary breach, the prosecutor exercising disciplinary powers will nonetheless hear the prosecutor subjected to the proceedings.
88. GRECO notes the developing practice within the Prosecution Service to engage a disciplinary commissioner in disciplinary proceedings, in addition to the superior prosecutor. That said, GRECO also notes that the role of disciplinary commissioners

is limited to investigating the case and that the superior prosecutor still leads the overall procedure. The concern expressed in this recommendation goes further, namely to exclude the direct superior prosecutor from dealing with the disciplinary proceedings, contrary to what appears to be the case, in a procedure providing for enhanced accountability and transparency.

89. GRECO concludes that recommendation xvii has not been implemented.

Recommendation xviii.

90. *GRECO recommended that appropriate training and counselling on ethics and integrity matters be made available to all public prosecutors on a regular basis, in particular for the implementation and development of the Code of Ethics and Standards of Professional Conduct for Prosecutors.*

91. The authorities indicate that, starting from 2016, the topic of ethics and the Code of Ethics and Standards of Professional Conduct for Prosecutors were integrated into the curriculum of the training programme for county deputy chief prosecutors, which is organised annually and attended by 34 county deputy chief prosecutors. They have in turn been instructed to organise at county-level training sessions for prosecutors based on the knowledge received during the “central” training. The most recent training for deputy prosecutors took place on 6-9 March 2017. Moreover, the Integrity Action Plan of the Prosecution Service for 2017 provides that training material on ethics and integrity will be published online and used for the continuous training of all prosecutors. As to counselling, an integrity advisor is appointed by the General Prosecutor; prosecutors can turn the integrity advisor for advice on ethics and integrity in a flexible manner (i.e. by telephone, in writing, or in person).

92. GRECO welcomes the steps taken to develop training of chief prosecutors on ethics and the forthcoming online training for prosecutors in general. It also takes note of the existence of an integrity advisor to whom prosecutors can turn for advice on ethics and integrity.

93. GRECO concludes that recommendation xviii has been implemented satisfactorily.

III. CONCLUSIONS

94. **In view of the foregoing, GRECO concludes that Hungary has implemented satisfactorily or dealt in a satisfactory manner with five of the eighteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, two have been partly implemented and eleven have not been implemented.

95. More specifically, recommendations vii, ix, xi, xiii and xviii have been either implemented satisfactorily or dealt with in a satisfactory manner, recommendations xiv and xv have been partly implemented and recommendations i, ii, iii, iv, v, vi, viii, x, xii, xvi and xvii have not been implemented.

96. With respect to members of parliament, it is disappointing that only one of the recommendations has been complied with fully. That said, some measures appears to be underway, such as guidelines on the Rules of Conduct, and an e-learning training programme on ethics and conflict of interest and corruption prevention has been put in place for both new and serving MPs. Nonetheless, it should be ensured that MPs are encouraged to follow this e-training programme. However, no other developments have been made: to improve the level of transparency and consultation in the legislative process, including to regulate how MPs interact with lobbyist and other third parties, to introduce a requirement for *ad hoc* declarations

of conflict of interest, to ensure a uniform format of asset declarations, to review the broad immunity enjoyed by MPs or to ensure the effective supervision and enforcement of rules of conduct, conflict of interest and asset declarations.

97. Insofar as judges are concerned, three recommendations remain to be implemented. Hungary has adopted a new regulation to supplement the Code of Ethics and provide more detail on situations of conflict of interest, including gifts. Training has been organised on the Code of Ethics. A new regulation has also been adopted to streamline the evaluation of judges and ensure a uniform approach. That said, no progress has been made to review the powers of the president of the NJO in the selection of candidates and strengthen those of the NJC accordingly, to reduce the legal powers to re-assign judges without their consent and to limit the immunity of judges to activities related to their participation in the exercise of justice.
98. When it comes to prosecutors, some progress has been made. There is now a requirement to include in the case file any reason to remove a case from a prosecutor. Some steps have been taken to provide training on ethics and integrity matters. That said no progress has been achieved regarding the possibility of prolonging the term of the Prosecutor General, the broad immunity enjoyed by prosecutors; and the fact that disciplinary proceedings are not handled outside the direct hierarchical structure.
99. In view of the above, GRECO concludes that the current low level of compliance with the recommendations is “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides 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 asks the Head of delegation of Hungary to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations i to vi, viii, x, xii, and xiv to xvii) as soon as possible, however – at the latest – by 30 June 2018.
100. Finally, GRECO invites the authorities of Hungary to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.