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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

MALTA

Adopted by GRECO at its 83rd Plenary Meeting
(Strasbourg, 17-21 June 2019)

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I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Malta to implement the recommendations issued in the Fourth Round Evaluation Report on Malta (see paragraph 2). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report on Malta](#) was adopted at GRECO's 66th Plenary Meeting (8-12 December 2014) and made public on 23 June 2015, following authorisation by Malta.
3. The [Fourth Round Compliance Report](#) was adopted by GRECO at its 75th Plenary meeting (24 March 2017) and made public on 27 March 2017, following the authorisation by the Maltese authorities. As required by GRECO's Rules of Procedure, the authorities of Malta submitted a Situation Report on further measures taken to implement the pending recommendations. This report was received on 3 January 2019 and served as a basis for the Second Compliance Report.
4. GRECO selected the United States of America (with respect to parliamentary assemblies) and Bosnia and Herzegovina (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Jane LEY, on behalf of the United States of America and Mr Adnan DLAKIC, on behalf of Bosnia and Herzegovina. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO addressed nine recommendations to Malta in its Fourth Evaluation Report. In the Compliance Report, GRECO concluded that four of the nine recommendations (iv, vii, viii and ix) had been implemented satisfactorily by Malta. A further four recommendations (ii, iii, v and vi) had been partly implemented and only one recommendation (i) had not been implemented. Compliance with the pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendations i, ii and iii.

6. *GRECO recommended:*
 - *that a thorough review of the current provisions of the Code of Ethics for members of parliament and the Standing Orders related to integrity, ethics, financial/activity declarations and conflicts of interest be undertaken with a view to adopting improvements that will provide more subject matter coverage, consistency and clarity, as well as guidance. (recommendation i)*
 - *that measures be taken to ensure there is appropriate supervision and enforcement of (i) the rules on the declaration of assets, financial interests and outside activities, and (ii) the standards of ethics and conflicts of interest provisions applicable to members of parliament. This clearly presupposes that a range of effective, proportionate and dissuasive sanctions be available. (recommendation ii)*
 - *(i) establishing a dedicated source of confidential counselling to provide parliamentarians with advice on ethical questions, conflicts of interest in relation to their legislative duties, as well as financial declaration obligations; and (ii)*

providing regular awareness raising activities for members of parliament covering issues, such as ethics, conflicts of interest, acceptance of gifts, honoraria, hospitality and other advantages, outside employment and activities, declarations of financial/activity interests, as well as other activities related to the prevention of corruption and the promotion of the integrity within the Parliament. (recommendation iii)

7. GRECO recalls that recommendation i was not implemented according to the Compliance Report, as no thorough review of the provisions of the Code of Ethics for members of Parliament had taken place. Recommendations ii and iii were implemented only partly, as the draft law on Standards in Public Life did contain an advisory, monitoring and enforcement system, but failed to provide sufficiently dissuasive sanctions, such as the possibility of expulsion and/or fines for late filing, false filing or failure to file the required financial reports under the Code of Ethics. GRECO also urged the authorities to adopt the proposed draft so that its implementation could be assessed in practice.
8. The Maltese authorities now report that the Act on Standards in Public Life entered into force on the 30 October 2018, and that the Parliamentary Commissioner for Standards¹ has been appointed. From information submitted by the authorities, the Commissioner has announced he has begun a review of the Code of Ethics for members of Parliament, expected to be concluded by the end of 2019. Following the completion of the review, the authorities intend to organise awareness-raising activities.
9. Further, regarding recommendations ii and iii, the authorities state that the current Commissioner for Standards is fully committed to carrying out his function effectively and is already investigating three cases of alleged misconduct and/or unethical conduct. According to the authorities, the Commissioner is currently examining declarations of assets and interests of members of Parliament, reflecting the situation as of 31 December 2018. The authorities also report that the Commissioner has been informed of GRECO's recommendations and is determined to address them.
10. GRECO takes note of the information provided. It welcomes the adoption of the Act on Standards in Public Life, as well as the appointment of the Parliamentary Commissioner for Standards, which appear as important steps towards the implementation of recommendation i. However, given that the review of the Code of Ethics has not yet been completed, and it is not known to what extent this revision encompassed matters related to integrity, ethics, financial/activity declarations and conflicts of interest, GRECO cannot conclude that measures reported by the authorities fully respond to the present recommendation.
11. GRECO concludes that recommendation i has been partly implemented.
12. With regard to recommendations ii and iii, GRECO takes note of the current Commissioner's commitment to carry out his functions effectively, demonstrated by his initiation of eight investigations of alleged misconduct and/or unethical conduct, of which three have been completed. Nonetheless, the information provided by the authorities is insufficient to demonstrate clear and tangible progress in the implementation of recommendation ii. In addition, while GRECO recommended that effective, proportionate and dissuasive sanctions be available, no information is provided as regards to the sanctions at the Commissioner's disposal.
13. Further, the Maltese authorities provide no information concerning any measures taken to establish a dedicated source of confidential counselling for members of

¹ www.standardscommissioner.com

Parliament on ethical questions, conflicts of interest and financial declarations. GRECO is also not informed of any regular awareness-raising activities for members of Parliament, and other activities related to the prevention of corruption and the promotion of the integrity within Parliament.

14. While noting a modest progress brought about by the adoption of the Act on Standards in Public Life and the activities of the newly appointed Parliamentary Commissioner for Standards, GRECO concludes that recommendations ii and iii remain partly implemented.

Corruption prevention in respect of judges

Recommendation v.

15. *GRECO recommended that the system of judicial accountability be significantly strengthened, notably by extending the range of disciplinary sanctions to ensure better proportionality and by improving the transparency of complaints processes.*
16. GRECO recalls that this recommendation was partly implemented. In its Compliance Report, GRECO welcomed, in particular, the authorities' effort to adjust and reinforce the disciplinary framework against judges by entrusting it to an independent authority, and by reviewing the range of disciplinary sanctions to improve their efficiency and proportionality. Nonetheless, GRECO stressed the need to take additional steps to improve the transparency of complaints processes. This could have been achieved by publishing statistics on complaints received, types of breaches and sanctions etc., which could contribute to identifying and preventing corruption within the judiciary, and raising public awareness of actions taken.
17. The Maltese authorities provide no new information relevant to this recommendation.
18. GRECO is concerned by the lack of information regarding the measures taken to implement the present recommendation and calls upon the authorities to make progress on improving the transparency of complaints processes.
19. GRECO concludes that this recommendation remains partly implemented.

Recommendation vi.

20. *GRECO recommended that (i) a compulsory induction training programme, including consideration of judicial ethics, be developed; (ii) that mentoring arrangements for new judges, exploring the ethical implications of appointment, be formalised; and (iii) that a regular programme of in-service training be provided along with targeted guidance and counselling on corruption prevention topics and judicial ethics for the various persons required to sit in court (judges, magistrates, and adjudicators of boards and tribunals).*
21. GRECO recalls that this recommendation was partly implemented. In the Compliance Report, GRECO stressed the need to reinforce training and advisory opportunities on judicial ethics not only for newly appointed judges, but also for the entire judicial body, particularly in the light of past experience of unethical behaviour of some of its senior members.
22. The Maltese authorities now inform GRECO that the Judicial Studies Committee (JSC) has increased the budget allocated to training from €9,000 to €14,000. However, the authorities provide no additional information as to the actual training programme, mentoring arrangements for new judges, regular programme of in-service training, or targeted guidance and counselling on corruption prevention and judicial ethics.

23. GRECO takes note of the information provided. An increase of the budget for training purposes is a welcome development. However, the current lack of information concerning the establishment of substantial initial and in-service training for persons required to sit in court (judges, magistrates, and adjudicators of boards and tribunals), as well as other activities to provide guidance and counselling on corruption prevention and judicial ethics, precludes GRECO from assessing whether the concerns expressed in this recommendation have been satisfactorily addressed.
24. Therefore, GRECO concludes that recommendation vi remains partly implemented.

III. CONCLUSIONS

25. **In view of the foregoing, GRECO concludes that Malta has implemented satisfactorily or dealt with in a satisfactory manner four of the nine recommendations contained in the Fourth Round Evaluation Report.** Out of the remaining recommendations, five have been partly implemented.
26. More specifically, recommendations iv, vii, viii and ix have been implemented satisfactorily or dealt with in a satisfactory manner, and recommendations i, ii, iii, v and vi have been partly implemented.
27. With respect to members of parliament, GRECO welcomes the adoption of the Act on Standards in Public Life, as well as the appointment of the Parliamentary Commissioner for Standards. However, the need to ensure appropriate supervision and enforcement of rules on the declaration of assets, interests and outside activities, as well as standards of ethics through a range of effective, proportionate and dissuasive sanctions has not yet been fully addressed by the authorities. It would appear that the provisions of the Code of Ethics for members of Parliament are still to be reviewed. The arrangements for confidential counselling for members of Parliament on ethical questions, conflicts of interest and financial declarations have still not been put in place. The authorities should also take additional steps to provide regular awareness-raising and other activities for parliamentarians on the prevention of corruption and the promotion of the integrity.
28. As regards the judiciary, GRECO notes the increase of the budget earmarked by the Judicial Studies Committee for training purposes as a positive step. However, the authorities still need to draw up an induction training programme for newly appointed judges, which would include judicial ethics, as well as a regular in-service training programme, along with targeted guidance and counselling on corruption prevention and judicial ethics, for the various professionals required to sit in court (judges, magistrates, and adjudicators of boards and tribunals).
29. In view of the fact that five (out of nine) recommendations are yet to be implemented fully, GRECO in accordance with Rule 31 revised, paragraph 9 of its Rules of Procedure asks the Head of the delegation of Malta to submit additional information, namely regarding the implementation of recommendations i, ii, iii, v and vi by 30 June 2020.
30. Finally, GRECO invites the authorities of Malta to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.