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Groupe d'États contre la corruption

COUNCIL OF EUROPE



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FOURTH EVALUATION ROUND

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

INTERIM COMPLIANCE REPORT

FRANCE

Adopted by GRECO at its 85th plenary meeting
(Strasbourg, 21-25 September 2020)

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I. INTRODUCTION

1. This interim compliance report assesses the measures taken by the French authorities to implement the recommendations in the Fourth Round Evaluation Report on France (see paragraph 2) on "corruption prevention in respect of members of parliament, judges and prosecutors".
2. GRECO adopted the Fourth Round Evaluation Report on France at its 62nd plenary meeting (6 December 2013) and it was made public on 27 January 2014, following authorisation by France ([GrecoEvalIVRep\(2013\)3E](#)). The corresponding compliance report was adopted by GRECO at its 71st plenary meeting (18 March 2016) and was made public on 3 June 2016 ([GrecoRC4\(2016\)2](#)).
3. The Second Compliance Report ([GrecoRC4\(2018\)7](#)), adopted by GRECO at its 80th plenary meeting (22 June 2018) and published on 18 September 2018, following French authorisation, concluded that France had only implemented or dealt satisfactorily with four of the eleven recommendations in the Fourth Round Evaluation Report: recommendations ii, vi, vii and xi. In the light of these findings, GRECO concluded that the level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3, of its Rules of Procedure. It therefore decided to apply Rule 32 concerning members failing to comply with the recommendations contained in the mutual evaluation report and asked the head of the French delegation to submit a report on progress in implementing the recommendations still pending (i.e. recommendations i, iii, iv, v, vii, ix and x) by 30 June 2019, subsequently extended to 30 September 2019, pursuant to Rule 32, paragraph 2(i). The report was received on 2 August 2019 and has served as the basis for this interim compliance report.
4. GRECO asked Luxembourg (with regard to parliamentary assemblies) and Moldova (with regard to the judicial institutions) to appoint rapporteurs for the compliance procedure. The rapporteurs in question are Mr David Lentz, on behalf of Luxembourg, and Mr Alexandru Cladco, on behalf of Moldova. They have been assisted in preparing this report by the GRECO secretariat.
5. This interim compliance report assesses the implementation of the recommendations still pending since adoption of the second compliance report and offers an overall evaluation of France's level of compliance with these recommendations.

II. ANALYSIS

6. In its evaluation report, GRECO made 11 recommendations to France. In the subsequent compliance reports, it concluded that recommendations ii, vi and vii had been implemented satisfactorily, recommendation xi had been dealt with satisfactorily, recommendations i, iii, iv and x had been partly implemented and recommendations v, viii and ix had not been implemented. Compliance with the seven outstanding recommendations is therefore considered below.

Preventing corruption of members of parliament

Recommendation i.

7. *GRECO recommended that the conditions relating to the use of parliamentary assistants and collaborators, the operational expenses allowance and the parliamentary reserve facility be thoroughly reformed in order to ensure the transparency, accountability and supervision of the resources concerned.*

8. GRECO has previously found that two aspects of this recommendation, namely the conditions attached to the use of parliamentary assistants and collaborators and the parliamentary reserve facility, had been dealt with satisfactorily. The part of the recommendation concerning parliamentary expenses was still only partly implemented. It welcomed the abolition, as of 2018, of the operational expenses allowance (IRFM) by the so-called Public Trust Law. However, the new measures introduced by the National Assembly and the Senate did not guarantee the transparency of these expenses. GRECO also stressed the importance of effective oversight of such expenses, which implied adequate resources and a proactive approach.
9. The French authorities first wish to make certain comments on the current system governing the employment of extended family members and “overlapping” employment. Although GRECO found that this part of the recommendation had been implemented, it called on the French authorities to remain vigilant on the subject.
10. In a ruling of its Bureau dated 19 April 2018, the Senate has introduced arrangements whereby the parliamentary ethics committee systematically scrutinises the recruitment of staff with family connections with any member of either House, to identify “overlapping” jobs. In each case, the committee must ensure that the appointment of such persons does not offer them a “privileged” financial situation, that they have the right skills and qualifications for the post and that this form of recruitment remains the exception. Where there are potential ethical issues, the committee chair can order the suspension of the recruitment procedure.
11. Since this ruling came into force, the committee has received four declarations of intention to recruit by senators. In two cases, in June 2018 and January 2019, the committee did not oppose the recruitment of a member of the senator’s “second family circle” (brothers, sisters, nephews, nieces, etc.). It also received two related declarations in February 2019 concerning the simultaneous “overlapping” recruitment of their respective children by the senators concerned. The committee chair asked for implementation of the relevant contracts to be deferred to enable the committee to issue a ruling on the situation. The proposed recruitments were finally abandoned by the two senators.
12. Under Article 8 *quater* of order 58-1100 of 17 November 1958 on the functioning of parliamentary assemblies, in application of the legislation on confidence in political life, members of the National Assembly, like senators, must declare the employment of members of their “second family circle” to the Assembly Bureau and to the body responsible for overseeing ethics, and their staff must declare to these same bodies any family links with members of either House, to identify cases of “overlapping” employment. The National Assembly’s Ethical Standards Commissioner can then decide whether these appointments raise ethical issues and she is empowered to order the cessation of this situation. So far, eight declarations have been submitted by members of parliament and nine by staff members.
13. Turning to the part of the recommendation still pending, namely reform of the operational expenses allowance system, the French authorities wish to make the following points.
14. In the National Assembly, Bureau order 12/XV of 29 November 2017 on operational expenses provides for alternative forms of scrutiny according to how expenses are covered.
15. Initial oversight of expenses met directly by the Assembly or repaid on presentation of supporting documents is the responsibility of Assembly officials answerable to the *questeurs*. When expenses have been reimbursed, the Ethical Standards

Commissioner is empowered to carry out appropriate checks and ask to see the relevant supporting documents.

16. Oversight of expenses covered by the monthly advance of operating expenses (AFM), which has replaced the former IRFM, is solely the responsibility of the Ethical Standards Commissioner. There are two forms of scrutiny:
 - during the financial year, at any time, checks on expenses incurred by a member of parliament;
 - at the end of the financial year, checks on all the members' accounts.
17. Under the Bureau order, each member must submit to the Ethical Standards Commissioner, within one month of the end of the financial year, the financial statements relating to the dedicated account into which the AFM is paid. Members are also required to submit to the Commissioner, immediately and in dematerialised form, supporting information and documents, which must be registered, filed and retained, if the Commissioner so requests.
18. Each Assembly member is required to maintain precise accounts of expenses incurred. As of 2019, members must employ an accountant to draw up the accounts of expenses covered by the AFM.
19. In July 2018, the National Assembly signed an agreement with the national auditors' association under which the latter would assist the Ethical Standards Commissioner to establish a proper monitoring system.
20. The Commissioner drew up proposals for such monitoring arrangements, which she presented to the Assembly Bureau on 30 January 2019. The Bureau approved it and decided that the members to be monitored would be chosen by lot, while respecting the proportional representation of each group. The arrangements for the selection procedure were laid down in Bureau order 61/XV of 30 January 2019.
21. It is initially planned to carry out *ex post* annual checks on one quarter of members over the four-year length of the parliament, so that all of them are scrutinised once over a full legislature. Moreover, in the course of each year checks will be carried out on 50 members, who may already have been subject to an annual check.
22. The order also specifies that systematic checks will be carried out on how members whose term of office is interrupted before its formal end date used their AFM in the year of their departure, if they had not already been the subject of an annual check during that parliament. Finally, specific checks will be introduced in 2022 for six months of the financial year and will concern 50 members. These will focus on one part of the AFM expenses categories.
23. Checks will be carried out using traditional audit sampling methods. They will focus on whether expenses are eligible and reasonable, there is relevant supporting documentation and the expenses concerned have not been registered twice.
24. The annual checks will cover at least 50% of each member's expenses attributed to the AFM and at least 50% of the volume of supporting documents supplied.
25. The checks carried out in the course of the year cover at least three months and one or two categories of expenses. They must include at least 50% of total expenses in the category or categories concerned, plus relevant supporting documents, for the relevant period.

26. The members of parliament to be audited in 2019 were chosen by lot on 6 February 2019. The first checks were carried out in March 2019 and should be completed by early April 2020. On 15 January 2020, a quarter of members of parliament likely to be audited for the year 2019 were drawn, *i.e.* 144 members.
27. It was decided that the Ethical Standards Commissioner would rely on the Assembly's internal staff resources to carry out her checks, rather than using outside experts. She is assisted by a team of six persons, comprising a head of division, two administrators, a deputy administrator and two technical assistants. The Board of *Questeurs* decided on 16 January 2020 to increase the team's strength by three permanent members of staff and one temporary.
28. For the record, in the Senate, and with the exception of certain costs met directly, such as Paris taxis and telephone bills, most operational expenses are covered by advance payments, in the form of one general advance and three specific ones for, respectively, accommodation in Paris, IT equipment and entertainment. The reimbursement of expenses incurred by senators is subject to repayment of advances not used.
29. As already noted in GRECO's last report, the main rules on the oversight of operational expenses were laid down by the Bureau of the Senate on 7 December 2017 and have been published on the Senate's internet site¹. Checks are conducted annually and relate, *ex post*, to the previous year.
30. The Senate has decided to use the services of two outside bodies offering appropriate guarantees of professional competence and independence, with which it concluded an agreement on 6 June 2018:
 - the national audit association (*Compagnie nationale des commissaires aux comptes*) and
 - the national association of chartered accountants (*Conseil supérieur de l'ordre des experts-comptables*).
31. In autumn 2018, the national audit association prepared a set of control standards and checklists to place the monitoring process on a more objective footing. On 16 October 2018, the Senate's parliamentary ethics committee approved these documents, together with the rules governing proceedings before it.
32. In accordance with the control standards, each year senators, including ones who relinquish office before the date of the control procedure in question, are subject to:
 - in-depth monitoring, which concerned 104 senators in 2019, or,
 - transversal monitoring, in the case of the remaining 255 senators.
33. Every senator is the subject of random controls using traditional audit methods, but with varying intensity. For in-depth controls, checks will be carried out on between 40 and 60% of declared expenses, depending on the number of anomalies identified. Transversal controls focus on a sample of supporting documents concerning between 10 and 30% of declared expenses, while focusing on certain categories of expenses.
34. The selection of senators for in-depth controls entails a two-pronged approach which prevents individuals from knowing what sort of checks they will undergo the following year. The selection process is the responsibility of the national audit association, according to the following rules:

¹ All the applicable regulations can be consulted on:
https://www.senat.fr/role/nouveau_regime_frais_de_mandat.html

- each senator is selected on a programmed, but not foreseeable, basis for controls from the current date until renewal of the series to which he or she belongs;
 - even when senators have been controlled once, they can still be subject to further in-depth checks following the drawing of lots;
 - senators who are not the subject of in-depth controls undergo transversal monitoring.
35. Since 1 April 2019, the supporting documents submitted by senators on the computerised application have been examined by teams of accountants, comprising 35 persons from two accounting practices. Those concerned were selected in February 2019 by the national association of chartered accountants.
 36. Checks are carried out on the documents themselves, accompanied where necessary by requests to senators for further information.
 37. Based on the accountants' reports, the Senate's parliamentary ethics committee issues a statement indicating whether or not the senator concerned is in compliance with the rules in force. This decision is transmitted to the President of the Assembly and then to the senator him or herself.
 38. The accountancy association's audit report was submitted on 10 July 2019 to the ethics committee, which met the same day to take note of it. After receiving the written and/or oral comments of the senators concerned, the committee met on 24 July to rule on the various individual situations before issuing certificates of compliance.
 39. The ethics committee formally closed the 2019 audit exercise on expenses incurred in 2018 on 18 September 2019. The senators concerned were issued with 355 post-audit certificates, where appropriate accompanied by the committee's comments.
 40. In this first monitoring exercise, the committee identified financial irregularities in 0.8% of the advances made by the Senate to senators in 2018 and in 0.93% of the total advances actually spent by them. Taking into account the amounts arising from recording errors or items recorded more than once, these proportions rise to 1.26% of total advances made and 1.47% of advances actually spent. The list of sums which the committee refused to accept as valid was transmitted to the President of the Assembly, then forwarded to the Senate *Questeurs*, who notified the senators concerned of the amounts due to be repaid. These repayments were made in the final quarter of 2019. The information has not as yet been made public.
 41. Meanwhile, the Court of Audit (*Cour des comptes*), which certifies the Senate's accounts, is currently scrutinising its accounting procedures relating to the payment and settlement of advances for operational expenses to ensure that they meet the required standards. This requires the certifying body to ensure, from its documentary and on-site investigations, that the verification procedure is fully effective. The certification report on the 2019 accounts will be published by the Senate on its internet site once the Court of Audit's investigations are completed.
 42. For information, senators whose use of the advances is incompatible with the rules in force are required to repay the sums involved, at the request of the *Questeurs*. In the event of serious misconduct, the Senate Bureau may decide to impose a penalty.
 43. The first year audits have not revealed any particularly serious misconduct that would have justified disciplinary sanctions over and above the recovery of sums which the Senate had no responsibility to meet. If the Senate Bureau were required to consider

a case and impose a penalty the outcome would be published in accordance with the final paragraph of rule 99 *ter* of the Senate rules of procedure, whereby “as an exception to rules 93 and 96, on the proposal of the President these disciplinary penalties shall be handed down by the Bureau, with reasons, having regard to the seriousness of the misconduct, after it has heard the senator or one of his or her colleagues acting on his or her behalf. Such decisions shall be made public”.

44. Finally, it should be noted that the High Authority for Transparency in Public Life (HATVP) has carried out checks to ensure that there has been no unjust enrichment on the part of members of the 14th parliament (2012-2017) completing their term of office and outgoing series 1 senators (2011-2017). It appeared that 15 members of parliament had made personal use of their operational expenses allowances. Their cases have been referred to the public prosecutor for misappropriation of public funds under Article 40 of the Code of Criminal Procedure. The situation arose after the two Houses had issued new rules on the appropriate use of the operational expenses allowance after 2015, but before each of them had adopted their new rules of procedure following the passage of the Act of 15 September 2017 on confidence in political life.
45. GRECO notes the information supplied by the French authorities regarding the arrangements governing the employment of extended family members and “overlapping” employment. It welcomes the steps taken to avoid the “overlapping” employment of assistants and other staff. In its last compliance report, GRECO concluded that this aspect of the recommendation had been treated satisfactorily. Nevertheless, it calls on the French authorities to continue to use due vigilance in systematically scrutinising the employment of parliamentary assistants and other staff.
46. Turning to the part of the recommendation still pending, concerning the treatment of members’ operational expenses, GRECO notes the new information on how the use of these expenses is monitored. In the case of the Senate’s revised oversight arrangements, it considers the involvement of independent, external bodies, the number of staff – 35 persons for 348 senators – allocated to this oversight role and the fact that every senator will be controlled each year to be positive developments. On condition that these oversight arrangements do in practice result in penalties for established cases of malpractice and that such penalties are made public, GRECO considers that the control of senators’ operational expenses meets the recommendation’s requirements.
47. The oversight of Assembly members’ operational expenses is felt to be less robust, however. The National Assembly has decided to rely on its own staff to carry out the control function, which clearly offers fewer guarantees of independence than does the use of outside professionals from the auditing and accounting fields. In her annual report², the Ethical Standards Commissioner calls for the political authorities to give her the necessary resources for this task. The decision in January 2020 to strengthen the Commissioner’s team is a step in the right direction, but it remains to be seen whether the new staffing levels will now be sufficient. Only one quarter of Assembly members will be controlled each year, compared with all the senators. It is therefore likely that the majority of members will be monitored only once during their term of office, which might give them a sense of impunity once the exercise has taken place.
48. Moreover, the new regulations allow members to refuse to supply the Ethical Standards Commissioner with confidential information covered by a statutory right to confidentiality or relating to the identity of third parties. The Commissioner has entered a reservation concerning this provision, which could prevent her from

² http://www2.assemblee-nationale.fr/static/15/deontologue/rapport_activite_300119.pdf

scrutinising certain expenses. Nor can any information about a control be disclosed, other than by the member concerned. GRECO therefore calls on the National Assembly to strengthen the arrangements for overseeing members' operational expenses and ensure that the results of the relevant controls are made public.

49. Finally, GRECO notes that the recommendation is also concerned with the transparency of operational expenses, which is a key aspect of effective oversight. No progress has been reported in this regard, either by the National Assembly or by the Senate.
50. GRECO concludes that recommendation i remains partly implemented.

Recommendation iii.

51. *GRECO recommended that the system for dealing with conflicts of interests of members of the National Assembly and senators be supplemented by rules and guidance on when there may be an individual obligation, depending on the case, to declare a potential conflict of interests or to abstain from participation in parliamentary activities.*
52. This recommendation was found in previous compliance reports to have been partly implemented. GRECO welcomed the establishment of a public register of abstentions or withdrawals of members of parliament within each House. It also approved of certain aspects of the National Assembly's current regulations, in particular Article 5 of its ethics code, which states clearly that members of parliament have a duty, and not just the possibility, to report conflicts of interest. However, it regretted that the equivalent Senate provisions were still based on the optional nature of reporting and withdrawal. GRECO also wished to see additional educational measures for members of both Houses.
53. The French authorities have provided the following information.
54. Amendments to the National Assembly's rules of procedure were approved on 4 June 2019 and came into force on 1 September 2019. The changes clarify the notion of conflict of interest by stating that "a conflict of interest does not exist where a member benefits only as a member of the general public or of a broad class of persons" (rule 80-1). This clarification, based on the relevant rules of the European Parliament and the Luxembourg Chamber of Deputies, was proposed by the Ethical Standards Commissioner.
55. As well as proposing this textual amendment, the Ethical Standards Commissioner is regularly consulted by members asking what, in practice, is covered by the notion of conflict of interest. According to the Commissioner's annual report of January 2019, slightly more than a quarter of the requests she receives are about this issue. The aforementioned report discusses these requests in considerable detail, to inform members of particular circumstances that might place them in a situation of conflict of interest.
56. The authorities maintain that these educational tools help members to identify conflicts of interest and, by extension, to deal with them with the aid of the measures available, as specified in the new rule 80-1-1 of the rules of procedure, namely:
 - A written or oral declaration of interests, recorded in the minutes of the meeting in question;
 - withdrawal from or abstaining from participating in certain activities;
 - abstaining from seeking or accepting certain positions in the Assembly, such as rapporteur on proposed or draft legislation or of a parliamentary commission/committee of inquiry.

57. These provisions for dealing with conflicts of interest appear in the Senate rules of procedure³, as amended on a proposal of the President of the Senate, in a motion passed unanimously on 6 June 2018 and confirmed by the Constitutional Council on 5 July⁴.
58. In its decision, the Constitutional Council ruled, for the first time, that Articles 3, 26 and 27 of the Constitution safeguarded the freedom of members of parliament when performing their parliamentary duties. Bearing in mind this principle, it then confirmed the ethical requirements by which senators were bound, subject to disciplinary penalties, and which, by their nature, were compatible with this principle. Senators are obliged, in all circumstances, to give the general interest priority over any private interests and to remain free of any form of dependency on private interests or foreign powers, and to carry out their parliamentary duties with "diligence, dignity, probity and integrity" (rule 91 of the new rules of procedure).
59. The same applies to the requirement that senators refrain from seeking or accepting, in the course their Senate activities, responsibilities that could place them in a situation of conflict of interest (rule 91 *ter*, 4, of the new rules of procedure). The Constitutional Council again concluded that this requirement had neither the purpose nor the effect of preventing senators from taking part in the Senate's activities, and was not therefore in breach of their freedom to perform their parliamentary duties.
60. In paragraph 15 of its aforementioned decision 2019-785 on the reform of the National Assembly's rules of procedure, the Constitutional Council extended this interpretation of the situation to include a requirement, also included in rule 91 *ter*, 2 of the new Senate rules of procedure, that members of parliament inform the Bureau of the House concerned of any decision to withdraw from certain activities or proceedings of the relevant House because of a conflict of interest. Once again, this obligation was confirmed since it had neither the purpose nor the effect of preventing members from taking part in the relevant House's activities.
61. According to the authorities, these developments, based on the new Senate rules of procedure, are an indication of the extent to which the regulations in force are becoming increasingly obligatory rather than just optional in nature, while remaining within the limits laid down by the Constitution to ensure that members of parliament are still free to perform their parliamentary duties.
62. To supplement these arrangements, on 6 September 2018 the Bureau of the Senate amended section XX *bis* of its general instruction on the register of withdrawals to incorporate the recording of declarations made by senators in accordance with the new rule 91 *ter* of the rules of procedure.
63. To facilitate implementation of the newly established arrangements, the Senate's parliamentary ethics committee has drawn up and issued to each senator an ethical guide, which is also available online on the Senate's internet site⁵. This educational tool, which dates from December 2018, is provided for in section XX *ter* of the Bureau's general instruction. It differs from the committee's annual report in that it is more general in scope and more practical. The aim is to make it a "living instrument" by means of regular updating.

³ The Senate rules of procedure and the Bureau's general instruction appear in <https://www.senat.fr/reglement/reglement.html>

⁴ Decision 2018-767 DC. The decision and associated commentary appear in <https://www.conseil-constitutionnel.fr/decision/2018/2018767DC.htm>

⁵ https://www.senat.fr/fileadmin/Fichiers/Images/sqp/Comite_de_deontologie/GUIDE_DEONTOLOGIE_SENATEUR_140119_BD.pdf

64. One sub-section of the guide is concerned with explaining what is meant by conflicts of interest and their context. Examples are given on page 23, to show senators what sort of cases might make them susceptible to a conflict of interest.
65. The guide, like other documents issued to senators, particularly when they first arrive, reminds them that they are entitled to consult the committee on ethical issues if they have any doubts about their own situation (rule 91 *septies* of the rules of procedure).
66. GRECO notes the changes to the two Houses' rules of procedure and the relevant decisions of the Constitutional Council. It considers that the current wording of the rules on the reporting of *ad hoc* conflicts of interest meets the recommendation's requirements. Members of parliament are themselves responsible for deciding whether a personal interest justifies such a report, in which case they must duly declare the matter.
67. Regarding the sought-after educational measures concerning conflicts of interest, GRECO considers that the explanations in the annual report of the National Assembly's Ethical Standards Commissioner meet the recommendation's requirements. The same applies to the contents of the Senate ethical guide on this question. GRECO also welcomes the fact that the guide is designed to be a living instrument, which the Senate's parliamentary ethics committee will update as necessary.
68. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

69. *GRECO recommended i) that the parliamentary regulations on gifts and other benefits be revised and supplemented to improve consistency, lay down prohibitions in principle and cover the various forms of benefits; ii) that declarations be published, especially in cases where those of a particular value remain permitted and are subject simply to a declaration (including invitations and travel).*
70. GRECO recalls that this recommendation had been considered partly implemented in past reports. The National Assembly had extended the declaration requirements to include invitations to sports and cultural events to a value of more than 150 euros. This obligation was in addition to the previous requirement to declare travel invitations to be paid for by third parties. GRECO welcomed the consistency of the new provisions but regretted that there were no prohibitions in principle, as called for in the first part of the recommendation. The second part of the recommendation had not been implemented by the National Assembly.
71. The Senate had implemented the second part of the recommendation, since the list of senators' declarations of gifts, donations, other benefits and travel invitations was published. Regarding the first part of the recommendation, the authorities had reported a ban in principle on the receipt of gifts, donations and other benefits in excess of 150 euros. However, GRECO noted that this prohibition did not appear in the ethical guide for senators and invited the Senate to incorporate it.
72. The French authorities refer to the National Assembly's new rules of procedure, as amended on 4 June 2019, which came into force on 1 September 2019 with a new rule 80-1-2. The new arrangements are still based on declarations to the Ethical Standards Commissioner, who is not empowered to authorise gifts, donations, other benefits or acceptance of invitations. Her role is confined to receiving declarations and, if appropriate, warning members about potential risks of conflicts of interest.

Assembly members also have the option of refusing gifts or, under Article 7 of the ethics code, depositing them with the Ethical Standards Commissioner or giving them to the National Assembly, so that, if appropriate, they can be auctioned for the benefit of a public interest body. The list of declared gifts and travel invitations is now published on the National Assembly's site: at its meeting on 9 October 2019, the Bureau decided that declarations to the Ethical Standards Commissioner should be published on the Assembly website, including the name of the member concerned, the nature of the donation or invitation, the identity of the donor or inviter, the estimated value of the donation or invitation and, where relevant, the fact that the object concerned had been lodged with the Commissioner or passed on to the National Assembly.

73. The Ethical Standards Commissioner's 2018 report confirms that there has been a steady increase in the number of declarations, indicating according to the authorities the degree of acceptance of the declaration requirement. Since June 2017, 67 members had lodged 110 declarations of gifts and so on and 188 members had lodged 364 declarations of travel invitations from third parties. The new rules of procedure extend the existing arrangements by requiring all such declarations to the Commissioner to be made public.
74. The French authorities also report that, as of 1 October 2018, the declaration requirements to which senators are subject now appear in rule 91 *quinquies* of the Senate's rules of procedure⁶ and in section XX *bis* of the Bureau's general instruction⁷, once again testifying to the greater importance ascribed to this matter, which initially, in 2014, had been covered by a simple decision of the Bureau. The President of the Senate has drawn senators' attention to their obligations in this respect, in circular letters of 2018 and 2019.
75. The Senate's December 2018 ethical guide devotes an entire section (pages 61 to 63) to the subject. It refers to the existing rules and sets out recommendations, on how to assess the value of gifts and other benefits, while urging senators to lodge declarations if there is any doubt about their value, and on the need to judge the possible consequences of acceptance or refusal of such an offer.
76. As a matter of principle, senators should refuse to accept gifts or benefits worth more than 150 euros offered by representatives of interest groups (in breach of the prohibition in Article 10 of the code of conduct applicable to them): "to ensure consistency, senators are invited to refuse gifts of this value that might be offered to them by representatives of interest groups included on the national register" (page 61 of the ethical guide). The authorities also state that 2 143 bodies were included on the national register (as of 21 September 2020) and 56 on the Senate register (as of 2 November 2019).

⁶ http://www.senat.fr/reglement/reglement_mono.html#toc282

"Senators shall declare to the Bureau of the Senate any travel invitations from bodies external to the Senate that they have accepted, together with gifts, donations and other benefits in kind that they have received, once the value of these invitations, gifts, donations and other benefits exceeds a level set by the Bureau ... The list of these invitations, gifts, donations and other benefits in kind shall be made public".

⁷ http://www.senat.fr/reglement/reglement_mono.html#toc282: "Pursuant to Article 91 *quinquies* of the Senate's rules of procedure, members of the Senate shall declare, on acceptance, travel invitations financed by external bodies and, within thirty days of their receipt, gifts, donations and other benefits in kind whose value exceeds 150 euros. These declarations shall be lodged, according to their subject matter, with the Bureau delegation responsible for senators' performance of their duties or the Bureau delegation responsible for international activities. The list shall be published on the Senate's internet site".

77. In connection with the first part of the recommendation, GRECO notes that the regulations of the two Houses have improved from the standpoint of consistency and coverage of the various types of benefits.
78. The National Assembly's regulations still fail, however, to provide for a ban in principle on certain gifts, donations and other benefits, even if the French authorities refer to the general prohibition to place themselves in a conflict of interest situation set out by the law of 2013 on the transparency of public life and the order of 1958 on the functioning of parliamentary assemblies. The Ethical Standards Commissioner has also made this point in her annual report, particularly since a comparative study has shown that the National Assembly lags behind some ten or so national parliaments and the European Parliament. Meanwhile, although the Senate regulations do "invite senators to refuse" gifts and benefits valued at over 150 euros the scope of this invitation is limited, since it only concerns gifts and benefits from representatives of interest groups included on the national register. As noted in the fifth round evaluation report on France, only interest groups seeking contacts with public officials or bodies are required to notify the national register. Some lobbyists, specifically those who are contacted directly in the context of decision making in fields concerning them, they do not have to enter their details on the national register. GRECO calls on the Senate to extend the scope of this rule. The first part of the recommendation therefore remains partly implemented with regard to the two Houses.
79. Turning to the second part of the recommendation, GRECO recalls that it has been implemented satisfactorily by the Senate. It welcomes the decision of the Bureau of the National Assembly to publish the list of donations and travel expenses declared by members on its internet site. This part of the recommendation has now been implemented satisfactorily by both Houses of parliament.
80. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

81. *GRECO recommended that declarations of assets by members of the National Assembly and Senators be made easily accessible to the public at large.*
82. GRECO recalls that the recommendation had been judged not to have been implemented in previous reports.
83. The French authorities state that the situation remains unchanged.
84. GRECO can only regret, once again, that no measures have been taken by the two Houses to give effect to this recommendation. In its 2018 annual report, the High Authority for Transparency in Public Life (HATVP) states that the current French process which drastically reduces the impact of publishing declarations of assets, only partially responds to the objective of securing parliamentary probity and is particularly unsatisfactory. GRECO fully subscribes to these criticisms. Like the high authority, it calls for the rules governing publication of members of parliament's and ministers' assets to be brought into line.
85. GRECO concludes that recommendation v has still not been implemented.

Preventing corruption of judges

Recommendation viii.

86. *GRECO recommended that the criteria for the awarding of official honorary decorations and distinctions of judges be reviewed in order to reduce any perceived risks for their independence and impartiality.*
87. GRECO recalls that the recommendation had been judged not to have been implemented in previous reports.
88. The French authorities state that the situation remains unchanged.
89. GRECO concludes that recommendation viii has still not been implemented.

Recommendation ix.

90. *GRECO recommended that disciplinary authority over judges and any prior administrative procedure be concentrated in the hands of the section of the Judicial Service Commission with jurisdiction over judges.*
91. GRECO recalls that this recommendation was judged to have been non-implemented since the authorities had not taken any measures that responded precisely to the recommendation.
92. The French authorities state that there have been no changes to the administrative procedure prior to commencement of proceedings in the Judicial Service Commission. Any investigations prior to such proceedings would be the responsibility of the relevant first presidents (judges' hierarchical superiors) or the General Inspectorate of the Justice System, to which cases can be referred by the Minister of Justice.
93. Nevertheless, discussions are under way on possible changes to the system for bringing cases before the Judicial Service Commission to enable the Commission to carry out investigations when it receives complaints from members of the public.
94. GRECO urges the continuation of these discussions, which could offer at least a partial response to the points made in paragraph 126 of the evaluation report. However, the recommendation takes matters further, by calling for disciplinary proceedings against judges to be concentrated in the hands of the Judicial Service Commission.
95. GRECO concludes that recommendation ix has still not been implemented.

Preventing corruption of prosecutors

Recommendation x.

96. *GRECO recommended i) that legislative reform establish a procedure for the appointment of prosecutors in line with that for judges, making it possible for the Judicial Service Commission to issue an opinion which is binding on the Minister of Justice; ii) that consultations take place on the possibility of aligning the disciplinary procedure for members of the prosecution service with that applicable to judges (with the Judicial Service Commission holding sole authority).*
97. GRECO concluded in the second compliance report that this recommendation had been partly implemented. The French authorities had gone beyond the consultations proposed in the second part of the recommendation by presenting proposals for constitutional reform to parliament along the lines recommended by GRECO. The

draft constitutional reform also met the requirements of the first part of the recommendation. However, since the proposed reform had not yet been enacted, the recommendation remained partly implemented.

98. The French authorities state that the situation remains unchanged, since the proposed constitutional reform is still before parliament. In his most recent statements, the Prime Minister indicated that examination of the draft legislation would not resume before 2020.
99. GRECO notes the information supplied and concludes that recommendation x remains partly implemented.

III. CONCLUSIONS

100. **Having regard to the conclusions in the previous fourth round compliance reports on France and in the light of the foregoing, GRECO concludes that France has now implemented or dealt with satisfactorily five of the eleven recommendations in the fourth round evaluation report, that is one more than in the second compliance report.** Of the other recommendations, three remain partly implemented and three have not been implemented.
101. More specifically, recommendations ii, iii, vi and vii have been implemented satisfactorily, recommendation xi has been dealt with satisfactorily, recommendations i, iv and x have been partly implemented and recommendations v, viii and ix have not been implemented.
102. Some progress has been made regarding members of parliament. This applies to the oversight of senators' operational expenses, the arrangements for dealing with conflicts of interest, the greater compatibility of the two Houses' regulations on receiving gifts and the publication, on the internet, of gifts, invitations and other benefits declared by Assembly members. Further progress is required, particularly in the case of Assembly members' operational expenses. Assembly members' and senators' declarations of assets should also be published online, as is the case with ministers.
103. However, GRECO regrets that the progress recorded in the previous reports regarding judges and prosecutors has not been maintained. The proposed constitutional reform concerning the role of the Judicial Service Commission (*Conseil Supérieur de la Magistrature*) in the appointment and disciplining of prosecutors is still before parliament. More than six months after the adoption of the evaluation report certain other recommendations have still not been dealt with, such as how disciplinary cases are referred to the Judicial Service Commission and the latter's powers of investigation.
104. In the light of the foregoing, and in particular of the progress relating to members of parliament, GRECO concludes that the current level of compliance with the recommendations is no longer "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3, of its Rules of Procedure. It therefore decides to cease its application of Rule 32 concerning members failing to comply with the recommendations contained in the mutual evaluation report.
105. In accordance with Rule 31 revised, paragraph 8.2 of its Rules of Procedure, GRECO asks the head of the French delegation to submit a progress report on implementation of still pending recommendations (namely recommendations i, iv, v, viii, ix and x), not later than 30 September 2021.

106. GRECO invites the French authorities to authorise, as soon as possible, publication of the report and to make it public.