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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

### ADDENDUM TO THE SECOND COMPLIANCE REPORT CROATIA

Adopted by GRECO at its 85<sup>th</sup> Plenary Meeting  
(Strasbourg, 21-25 September 2020)

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## **I. INTRODUCTION**

1. The Addendum to the Second Compliance Report assesses the measures taken by the authorities of Croatia to implement the recommendations issued in the Fourth Round Evaluation Report on Croatia (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report](#) on Croatia was adopted at GRECO's 64<sup>th</sup> Plenary Meeting (20 June 2014) and made public on 25 June 2014, following authorisation by Croatia.
3. The [Compliance Report](#) was adopted by GRECO at its 73<sup>rd</sup> Plenary Meeting (21 October 2016) and made public on 9 November 2016, following authorisation by Croatia.
4. The [Second Compliance Report](#) was adopted by GRECO at its 81<sup>st</sup> Plenary Meeting (on 7 December 2018) and made public on 29 January 2019, following authorisation by Croatia. Croatia was requested to submit additional information regarding the implementation of the outstanding recommendations. The information was received on 30 September 2019 and served as a basis for this Addendum.
5. The current [Addendum to the Second Compliance Report](#) evaluates the progress made in implementing the pending recommendations since the Second Compliance Report (i.e. recommendations i, iii, iv, vii, viii and xi) and provides an overall appraisal of the level of compliance with these recommendations.
6. GRECO selected San Marino (with respect to parliamentary assemblies) and Latvia (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were M. Eros GASPERONI, on behalf of San Marino and Ms Anna ALOSINA, on behalf of Latvia. They were assisted by GRECO's Secretariat in drawing up the Addendum to the Compliance Report.

## **II. ANALYSIS**

7. GRECO, in its Evaluation Report, had addressed 11 recommendations to Croatia. In the Second Compliance Report, GRECO concluded that recommendations ii, v, vi and x had been implemented satisfactorily; recommendation ix had been dealt with in a satisfactory manner; recommendations iv, vii and xi had been partly implemented; recommendations i, iii and viii had not been implemented. Compliance with the six pending recommendations is examined below.

*Corruption prevention in respect of members of parliament*

### **Recommendations i and iii.**

8. *GRECO recommended:*

*(i) that a code of conduct for members of Parliament be developed and adopted with the participation of MPs themselves and be made easily accessible to the public (comprising detailed guidance on e.g. prevention of conflicts of interest when developing the parliamentary function, ad-hoc disclosure and self-recusal possibilities with respect to specific conflict of interest situations, gifts and other advantages, third party contacts, deontology of dual mandate, etc.); (ii) that it be coupled with a credible supervision and enforcement mechanism (recommendation i); and*

*that efficient internal mechanisms be developed to promote, raise awareness and thereby safeguard integrity in Parliament, including on an individual basis*

*(confidential counselling) and on an institutional level (training, institutional discussions on ethical issues related to parliamentary conduct, etc.) (recommendation iii).*

9. GRECO recalls that these recommendations were considered not implemented in the Second Compliance Report: there were no tangible outcomes regarding the adoption of code of conduct for parliamentarians and the establishment of its corresponding advisory, supervisory and enforcement arrangements.
10. The authorities of Croatia report some progress regarding the preparation of a draft code of conduct and ethics for parliamentarians, which was sent to political parties in June 2019 for comments and which consultation process is ongoing. Once these are all received, the Committee on the Constitution, Standing Orders and the Political System will prepare a consolidated draft to be put forward to the plenary for adoption. The process is, therefore, still pending in Parliament.
11. GRECO regrets that more than six years after the adoption of the Fourth Evaluation Round Report on Croatia, the Parliament has not yet managed to adopt a code of conduct (and the relevant enforcement machinery) of its own. The Anticorruption Strategy 2015-2020 fixed the last quarter of 2015 as the implementation deadline for the adoption of such a code. That deadline is well passed now and the drafting process is still lingering. This situation is highly unsatisfactory.
12. GRECO concludes that recommendations i and iii remain not implemented.

*Corruption prevention in respect of judges and prosecutors*

**Recommendation iv.**

13. *GRECO recommended that the Croatian authorities review the procedures of selection, appointment and mandate renewal of the President of the Supreme Court in order to increase their transparency and minimise risks of improper political influence.*
14. GRECO considered this recommendation as partly implemented in the Second Compliance Report. In 2018, amendments had been made to the Courts Act, including by limiting the mandate of the President of the Supreme Court. GRECO, however, called for additional measures regarding the objectivity and transparency of selection and appointment of the President of the Supreme Court, including by providing for decisive involvement of the State Judicial Council in such processes.
15. The authorities of Croatia have not added any new information to what was already described in the Second Compliance Report, other than recalling that pursuant to the 2018 amendments to the Courts Act, the State Judicial Council takes part in the selection process of the President of the Supreme Court (which was not the case before the amendments).
16. GRECO can only reiterate the view it expressed in its Second Compliance Report. In its Fourth Round Evaluation Report, GRECO called for decisive involvement of the State Judicial Council in the relevant selection and appointment processes, thereby minimising political intervention. In this connection, GRECO notes that the role given to the State Judicial Council is restricted to the pre-selection process where it fulfils a merely depositary role: it is to announce the public call, gather the submitted CVs and submit the list of candidates – in no order or ranking – to the President. The actual selection and appointment procedures are the same as those described at the time of the evaluation visit, with the executive and the legislative having the real say in the selection and appointment of the President of the Supreme Court and no single

requirement on the establishment of a predetermined appointment methodology/procedure, nor having decisions reasoned. GRECO understands that co-responsibility in appointment is designed in the Constitution to allow for a system of checks and balances among the three branches of power (executive, legislative and judicial), but GRECO considers that additional measures are still required to preserve the objectivity and transparency of such a system, and to further prevent improper political considerations or the perception of unfairness or bias being factored into the appointment of the highest position in the judiciary.

17. GRECO concludes that recommendation iv remains partly implemented.

**Recommendations vii. and xi.**

18. *GRECO recommended that the authorities continue in their endeavours to strengthen the scrutiny of judges' (recommendation vii) and prosecutors' financial declarations (recommendation xi).*
19. GRECO deemed these recommendations as partly implemented in the Second Compliance Report. Legislative amendments had been made to step up the reviewing process of financial declaration forms; practical arrangements were to follow.
20. The authorities of Croatia report on new rules harmonising the financial reporting regime for judges and prosecutors, including by providing for public access to asset declaration forms (with due respect for privacy requirements) and by refining enforcement requirements. Additional implementing regulation followed in 2019. Judges and prosecutors were sending their respective financial declarations in 2019 and that computerised process is now completed for all. Further steps are being taken to ensure that publication of the data is made in due observance of privacy rights; legislative finetuning is currently taking place in this respect<sup>1</sup>. Automatised checks will follow on that basis.
21. GRECO welcomes the developments reported allowing for strengthened scrutiny of financial declaration forms of both judges and prosecutors. They are all good steps for which the authorities must be commended. Having said that, GRECO notes that the material operability of the IT system allowing for automated cross checks of financial declarations and information exchange among different authorities is still pending.
22. GRECO concludes that recommendations vii and xi remain partly implemented.

**Recommendation viii.**

23. *GRECO recommended that a communication policy, including general standards and rules of conduct as to how to communicate with the press, is developed for the judicial system (judges and prosecutors) with the aim of enhancing transparency and accountability.*
24. In its Second Compliance Report, GRECO welcomed the reflection launched to develop a targeted outreach campaign for the judiciary. Pending its actual materialisation, GRECO assessed this recommendation as not implemented.
25. The authorities of Croatia report that implementation of the outreach activities for the judiciary, as included in the 2019-2020 Anticorruption Action Plan, is proceeding at good pace:

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<sup>1</sup> Both the State Judicial Council and the State Attorney Council issued, in July 2020, amendments to the rules on the content of judges'/prosecutors' asset declaration forms and how to submit them, stipulating that such declarations are to be made public no later than 4 January 2021.

- Targeted training on communications skills for (i) judges and judicial counsels on public relations: from 2014 to 2019, (inception and in-service) workshops were organised on strengthening courts in their relations with the media and publicity of criminal procedure and relations with the media. The speakers were judges and prosecutors of higher levels. A total of 48 participants took part; (ii) courts' spokespersons: six workshops in 2016 and 2017, in which 96 participants took part. The speakers were high-level judges and media representatives. The participants of the workshops had the opportunity to get acquainted with the legal framework governing the position of courts' spokespersons and to acquire the basic skills required in communication with the media and the public through practical work; (iii) all judicial officials: seven one-day workshops were held in the second half of 2019 and attended by 139 participants. The workshops aimed at strengthening competencies of judicial officials in relation to communication skills within their own workforce, communication with clients, verbal and non-verbal aspects of interviewing, and prevention and successful resolution of demanding situations.
- Further developing and streamlining courts' websites, as well as the establishment of a single platform for information on judicial work (so called e-Spis). The latter project started in early 2019 and entails the uniform design of a courts' portal for all courts, with the sole exception of the Supreme Court. The purpose of this portal is to publish all necessary information on the work of the courts in one place: schedule of all public hearings (date when the hearing is held, the time, the number of files and the place where the hearing will take place), information on public sessions of high courts, and any other information that courts are required to publish in accordance with applicable regulations. Since the courts will be responsible for managing the content of the portal, education of administrator/key users is currently underway on how to edit and make public the content that will be available on the websites.

26. The Judicial Academy, in cooperation with the Ministry of Justice (Office of the Spokesman) and the Croatian Judges' Association are playing a key role on this front. More particularly, the Judicial Academy is currently drafting a communication policy, with general standards and rules of conduct on how to communicate with the press. Moreover, the adoption of Guidelines for Online Publication and Guidelines for Communication with the Media is also envisaged. Further measures are to follow with regards to the outreach policy of the prosecution service (and more particularly the amelioration of its respective online portals).

27. The authorities further add that they undertook an analysis of the reasons for public mistrust in the judiciary, which evidenced that this perception is mostly related to its efficiency and, more particularly, to the length of proceedings. Targeted measures have been taken to ameliorate this key shortcoming which is tainting the image of Croatia's judicial system. Efficiency has been a cornerstone system of the latest organisational reform which particularly, although not exclusively, targeted the network of municipal and misdemeanour courts. Some of the most notable features of this reform include: the merger of municipal and misdemeanour courts, streamlining the work of judges, swifter appointment procedures for judicial officials, prioritisation of cases over ten years old in municipal, commercial and county courts, as well the High Commercial Court<sup>2</sup>, facilitating access to courts for citizens (new courts in the network and increased jurisdiction of permanent services), ensuring easier administration of judicial authorities in order to strengthen the role of director

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<sup>2</sup> These efforts have yielded positive results: there has been a significant reduction in the number of unsolved cases which are more than 10 years old, namely a decrease of 16% in municipal courts at the end of 2017 compared to the end of 2016, and a decrease of 23% in commercial courts for the same period. At the end of 2018, compared to the end of 2017, there has been a further reduction in the number of cases by 23% in municipal courts and 13% in commercial courts.

of court administration, reducing the overall the number of managerial functions in courts (presidents of the courts) and increasing the number of resolvers.

28. GRECO welcomes the measures taken to upgrade the communication of the judiciary with the public, including by providing for intense training of judges and prosecutors on how to communicate with the press, improving court websites and the information provided by them, creating a common portal on judicial work, etc. These are all valuable measures aiming at improving transparency and accountability of judicial activity. That said, GRECO notes that work is still on-going in order to develop a communication policy, as required by the recommendation.
29. GRECO concludes that recommendation viii has been partly implemented.

### **III. CONCLUSIONS**

30. **In view of the foregoing, GRECO concludes that Croatia has implemented satisfactorily five of the eleven recommendations contained in the Fourth Round Evaluation Report. Out of the remaining recommendations, four have been partly implemented and two not implemented.**
31. More specifically, recommendations ii, v, vi and x have been implemented satisfactorily; recommendation ix has been dealt with in a satisfactory manner; recommendations iv, vii, viii and xi have been partly implemented; and recommendations i and iii have not been implemented.
32. With respect to members of parliament, GRECO regrets that more than six years have lapsed since the adoption of the Fourth Evaluation Round Report on Croatia and yet the Parliament has not managed to adopt a code of conduct (and the relevant enforcement machinery) of its own. Croatia remains almost alone among GRECO member states not having in place a code of ethics for parliamentarians. This is regrettable.
33. Regarding the judiciary, a legislative package was adopted in July 2018 to enhance its transparency, efficiency and accountability. Good steps have been made to strengthen the scrutiny of judges' and prosecutors' financial declarations, but the effective operability of the IT system allowing for automated cross checks and information exchange among different authorities is pending. Some targeted measures have been taken to improve communication with the public and openness of judicial work, including by upgrading the information available in courts' websites and training judicial holders on communication skills, but a communication policy is not yet in place. More should be done to instil greater transparency and objectivity in the process of selection and appointment of the President of the Supreme Court and a more decisive role of the State Judicial Council in this respect is also advisable.
34. In conclusion, GRECO urges the Croatian authorities to take determined and prompt action with a view to addressing the six pending recommendations. In accordance with Rule 31 Revised, paragraph 9 of its Rules of Procedure, the Head of delegation of Croatia is requested to submit additional information on the implementation of recommendations i, iii, iv, vii, viii and xi by 30 September 2021 at the latest.
35. Finally, GRECO invites the authorities of Croatia 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.