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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

## INTERIM COMPLIANCE REPORT

## ARMENIA

Adopted by GRECO at its 88<sup>th</sup> Plenary Meeting  
(Strasbourg, 20-22 September 2021)

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## **I. INTRODUCTION**

1. This Interim Compliance Report assesses the measures taken by the authorities of Armenia to implement the recommendations issued in the Fourth Round Evaluation Report on Armenia (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 Armenia](#) was adopted at GRECO's 69<sup>th</sup> Plenary Meeting (16 October 2015) and made public on 25 February 2016, following authorisation by Armenia.
3. The Fourth Round [Compliance Report](#) was adopted by GRECO at its 78<sup>th</sup> Plenary Meeting (8 December 2017) and made public on 21 December 2017, following authorisation by Armenia.
4. The [Second Compliance Report](#) was adopted by GRECO at its 84<sup>th</sup> Plenary Meeting (on 6 December 2019) and made public on 12 December 2019, following authorisation by Armenia. GRECO concluded in that Report that the low level of compliance was "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asked the Head of the Armenian delegation to provide a report on the progress in implementing the pending recommendations (i.e. recommendations i-iv, vii-ix, xi, xv, xvi and xviii), pursuant to paragraph 2(i) of that rule.
5. On 31 March 2021, the authorities of Armenia submitted a Situation Report on further measures taken to implement the outstanding recommendations. This information served as the basis for the current Interim Compliance Report.
6. GRECO selected Georgia and Hungary to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Gulisa KAKHNIASHVILI, on behalf of Georgia and Mr Bálint VARRÓ on behalf of Hungary. They were assisted by GRECO's Secretariat in drawing up this Interim Compliance Report.

## **II. ANALYSIS**

7. GRECO, in its Fourth Round Evaluation Report, addressed 18 recommendations to Armenia. In the Second Compliance Report, GRECO concluded that seven recommendations (v, vi, x, xii, xiii, xiv and xvii) had been dealt with in a satisfactory manner and eleven recommendations (i-iv, vii-ix, xi, xv, xvi and xviii) had been partly implemented. Compliance with the pending recommendations is examined below.

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

#### **Recommendation i.**

8. *GRECO recommended that the transparency of the legislative process in the National Assembly be secured and further improved (i) by ensuring that the requirement to carry out public discussions on draft laws is respected in practice and that drafts submitted to the National Assembly as well as amendments are disclosed in a timely manner and (ii) by taking appropriate measures to ensure disclosure of information on the content of and participants in committee sittings, as well as more active use by committees of the possibility to organise parliamentary hearings.*

9. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. Regarding part (i) of the recommendation, GRECO took note of the new procedures for public consultation, which expanded the minimum deadline for online consultations and entrusted the Ministry of Justice with monitoring the practice of public consultations. Public discussion of draft legislation in Parliament had however remained inconsistent, the use of "urgent procedures" was excessive<sup>1</sup> and evidence of draft legislation provided to the public at an early stage not available. Concerning part (ii) of the recommendation, GRECO was satisfied with the increased transparency of committee sittings and hearings, and the wider holding of parliamentary hearings. It therefore concluded that this part of the recommendation had been implemented satisfactorily.
10. The authorities now reiterate, with respect to the pending part (i) of the recommendation, that draft laws and related amendments debated by the parliament are as a rule published on the "www.e-draft.am" online platform and on the National Assembly's website. The online platform allows any interested party to present comments on draft legislation online. The practice of online streaming of all Assembly's committee and plenary sessions is also maintained. The upgraded parliamentary website will be launched in the coming months and the upgrade of the "www.e-draft.am" platform is underway to further enhance public consultation on draft legal acts. The authorities further inform that the number of draft legal acts posted on the "www.e-draft.am" platform had increased by 10% in the 4<sup>th</sup> quarter of 2020, which, in their view, demonstrates better public engagement in the law-making process. Finally, the authorities report that between 1 January 2020 and 1 July 2021, a total of 855 laws were adopted by the National Assembly - of which 27% by means of an urgent procedure.
11. GRECO is satisfied that all draft legal acts discussed in the parliament are timely posted on the dedicated platform and/or the National Assembly's website. However, apart from the indication that online tools are being upgraded to make them more suitable for public consultations, concrete information on the actual practices of public involvement in the law-making process is not provided. GRECO furthermore notes that the use of "urgent procedures" is still excessive. In view of these shortcomings, the pending part (i) of the recommendation remains partly implemented.
12. GRECO concludes that recommendation i remains partly implemented.

#### **Recommendation ii.**

13. *GRECO recommended (i) that a code of conduct for members of parliament be adopted and made easily accessible to the public, which provides clear guidance on conflicts of interest and related areas – including notably the acceptance of gifts and other advantages, incompatibilities, additional activities and financial interests, misuse of information and of public resources and contacts with third parties such as lobbyists; (ii) that it be complemented by practical measures for its implementation such as dedicated training, counselling and awareness-raising.*
14. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. Concerning part (i) of the recommendation, GRECO reiterated that a code of conduct for MPs containing appropriate guidance on conflicts of interest and integrity matters was still not in place. Regarding part (ii) of the recommendation, systematic and dedicated training and counselling on a Code were yet to be introduced.

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<sup>1</sup> 15% of draft legal acts were adopted in this way.

15. The authorities now inform, regarding part (i) of the recommendation, that in February 2020, the ruling "My Step" faction of the National Assembly established an informal working group to develop a draft Code of Ethics for MPs and seek agreement on establishing a parliamentary ethics committee to monitor MPs' compliance with the future Code (cf. recommendation iv below). An agreement to that effect was reached with the opposition factions "Prosperous Armenia" and "Bright Armenia".
16. Between February and July 2020, the informal working group circulated the following documents to the three factions:
  - the draft Code of Ethics for MPs, prepared by the Council of Europe experts within the framework of the joint CoE/EC project "Strengthening institutional capacities to fight and prevent corruption in Armenia" (April 2020); and
  - two reports on the mapping of suggestions for strengthening parliamentary integrity and related legislation, developed by "Ara Ghazaryan" law firm and Transparency International Armenia within the framework of a UNDP programme "New Armenia, Modern Parliament" (July 2020).

Those documents were discussed by the deputies, with the participation of other stakeholders, during events organised on 6-7 February and 28 July 2020. The draft Code of Ethics for MPs is now being revised based on the comments received.

17. The authorities state in addition that the Public Service Law, applicable *inter alia* to MPs, was amended on 25 March 2020 and now includes new provisions on the prohibition and registration of gifts (Articles 29 and 30).
18. Concerning part (ii) of the recommendation, the authorities refer to the independent Corruption Prevention Commission (CPC) which has been organising consultations (by e-mail or telephone) with MPs and providing on-going support on incompatibilities and asset disclosure. An online "Q&A" session was held for a group of MPs in the first half of 2020. Clarifications were primarily sought on external contracting of services, membership/posts in non-profit entities, compliance with the requirements on holding company shares, conducting business activities, etc.
19. GRECO takes note of the development of a draft Code of Conduct for MPs, the text of which has not been provided. GRECO understands that, following the June 2021 early parliamentary elections, the discussions on this draft will start anew. The new substantive provisions on gifts included in the Public Service Law (made available to GRECO) are noted as well and commented on under recommendation xvi below. Although CPC provided counselling on incompatibilities and asset disclosure for MPs, systematic training will need to be introduced once the Code of Ethics is adopted.
20. GRECO concludes that recommendation ii remains partly implemented.

### **Recommendation iii.**

21. *GRECO recommended taking appropriate measures to prevent circumvention of the restrictions on members of parliament holding office in commercial organisations and on their engagement in entrepreneurial activities or other paid occupation in entrepreneurial activities.*
22. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO took note of dedicated training sessions on integrity matters organised for newly elected MPs and of the two on-going cases concerning the issue of circumvention of the prohibition on side activities being processed by the CPC.

23. The authorities first recall the legislative framework on incompatibilities and conflicts of interest for MPs. They also recall that the CPC is the competent body to decide on MPs' incompatibilities, conflicts of interest and gift-related issues. On 26 October 2020, the CPC delivered a decision in which it found that one MP had violated restrictions on holding office in a commercial organisation and engaging in entrepreneurial activities. This decision was submitted to the Assembly (and is available on its website) and the Assembly's Board applied to the Constitutional Court to terminate the mandate of the MP concerned<sup>2</sup>.
24. Simultaneously, since November 2020, the CPC has been examining the respect by all public officials, including MPs, of the incompatibility rules. MPs who had declared ownership of company shares as part of their assets were asked to provide corresponding trust agreements. Overall, 9 such agreements were received from MPs, and no violations were identified by the CPC. Similarly, with respect to several allegations that MPs were holding representation or management positions in commercial entities, the CPC had discovered that the legal entities in question were inactive and that the state registry had not been up-dated. No further proceedings were launched by the CPC in any of the aforementioned cases.
25. The authorities add that the CPC is currently concluding the review of asset declarations, including those filed by MPs. Particular attention is paid to ownership of shares in commercial entities. So far, the declarations of 3 676 public officials have been processed and in 275 cases, including 26 concerning MPs, a potential violation has been identified. Investigations into all those cases are currently in progress.
26. The results of all CPC reviews (reports and statistics) have been made available to the public. The authorities underline that this was the first time incompatibilities were monitored by the CPC and that it is now planning to develop a dedicated monitoring methodology and carry out periodic, mandatory checks. Additionally, the CPC has developed risk indicators for reviewing asset and interest disclosures which automatically identify cases where public officials, including MPs, hold business shares and receive income from side activities. All such cases are analysed and, if justified, will lead to further measures.
27. GRECO recalls that the Evaluation Report describes potential problems of a structural nature when looking at the possible circumvention by MPs of the prohibition of side activities. While more systematic efforts are being deployed by the CPC to monitor side activities of MPs, most of this work appears to be still on-going. GRECO looks forward to being informed in due course of the outcome of the procedures referred to in paragraph 25 above and of the application of the planned new monitoring methodology and of the new types of checks carried out by the CPC. GRECO furthermore notes that the below assessment of recommendation xviii should also be borne in mind here.
28. GRECO concludes that recommendation iii remains partly implemented.

#### **Recommendation iv.**

29. *GRECO recommended that the mechanism for monitoring compliance by members of parliament with standards of ethics and conduct be significantly strengthened so as to ensure (i) independent, continuous and pro-active supervision of the rules of ethics and rules on incompatibilities and secondary activities, conflicts of interest and gifts (ii) enforcement of the rules through adequate sanctions.*

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<sup>2</sup> The Constitutional Court rejected the case because procedural requirements for submitting an application to the Constitutional Court were not met by the Assembly. The authorities further note that the MP in question lost his mandate as the result of the early 20 June 2021 parliamentary elections.

30. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. Regarding part (i) of the recommendation, GRECO concluded that the *ad hoc* Ethics Committee of the National Assembly which is responsible for monitoring adherence to the rules of ethics and *ad hoc* conflicts of interest of MPs, was not active enough with regard to the problem of conflicts of interest and incompatibilities. The CPC which was expected to supervise MPs' asset declarations, review opinions of relevant ethics commissions (including the one in Parliament) and decide on MPs' incompatibilities had just been established. The legislative measures taken, e.g. the criminalisation of illicit enrichment and administrative sanctions for the violation of rules on asset declarations, met the requirements of part (ii) of the recommendation.
31. The authorities now reiterate information previously reported in relation to recommendation ii above. They also refer to the draft law "On making changes and supplements to the Constitutional Law "On rules of procedure of the National Assembly", which has been debated by the Assembly since July 2020. The draft foresees the creation of an Ethics Commission to be composed of an equal number of members of the ruling and opposition factions. The Commission would be established at the first regular session of each regular parliamentary sitting (i.e. twice a year). The feedback received from various stakeholders on the draft has given rise to a discussion on the potential need to amend Armenia's Constitution, an issue that will be dealt with by the National Assembly elected in June 2021.
32. The authorities once more recall the CPC competences to *inter alia* review the opinions of the parliamentary Ethics Commission, decide on MPs' incompatibilities and scrutinise MPs' asset declarations. In 2021, the CPC has prioritised the analysis of practices regarding gifts and entertainment in the public service and will develop a procedure for declaring gifts and a methodology for the assessment of related risks.
33. GRECO takes note of the legislative process launched by the previous National Assembly intended to establish an *ad hoc* Ethics Committee responsible for monitoring adherence to the rules of ethics and *ad hoc* conflicts of interest of MPs. Without seeing the texts of the proposed amendments to the Assembly's Rules of Procedures and of the draft Code of Ethics for MPs (cf. recommendation ii), GRECO cannot ascertain whether the monitoring mechanism would meet the prerequisites of the recommendation. GRECO furthermore notes that, following the early parliamentary elections in June 2021, the deliberations on the establishment of the Ethics Committee will start anew and would entail amendments to the Constitution. As for the supervisory role of the CPC, activities meant to ensure MPs' compliance with incompatibility rules are noted under recommendation iii and those pertaining to the enforcement of gift-related rules – under recommendation xvi. No information however has been made available on the supervision of MPs' conflicts of interest other than those that are of an *ad hoc nature*.
34. GRECO concludes that recommendation iv remains partly implemented.

#### *Corruption prevention in respect of judges*

##### **Recommendation vii.**

35. *GRECO recommended reforming the procedures for the recruitment, promotion and dismissal of judges, including by i) strengthening the role of the judiciary in those procedures and reducing the role of the President of the Republic and requiring him to give written motivations for his decisions and ii) ensuring that any decisions in those procedures can be appealed to a court.*

36. At the time of adoption of the Compliance Report, part (i) of the recommendation was implemented satisfactorily and part (ii) of the recommendation was partly implemented. Concerning the latter, GRECO welcomed in the Second Compliance Report that, with the adoption in 2018 of the new Judicial Code, Supreme Judicial Council (SJC) decisions to refuse an application to a qualification examination for judges or to a judges' promotion list, could be appealed before an administrative court. Further amendments to the Judicial Code to fully address this part of the recommendation were in the making.
37. The authorities now draw attention to the Judicial Code as amended in March 2020. The revisions provide for an appeal against the results of written qualification examinations for judges to be brought to the specially created Appeal Commission, and subsequently – to an administrative court. The amendments also allow the SCJ to review its own decisions on the dismissal of judges if new circumstances arise. To confirm that the right to appeal is exercised in practice, the authorities provide statistics on the use in practice of the right of appeal to the SJC and the administrative courts for 2018-2020 showing the number of appeals concerning a) the results of written and oral qualification examinations for judges, and b) decisions of the Judicial Department under the SJC not to include applicants in the list of candidate judges.
38. As for the pending part (ii) of the recommendation, GRECO notes that, with the adoption in 2020 of amendments to the Judicial Code, the results of written qualification examinations for judges can now be appealed against before the SCJ and an administrative court. Bearing in mind information reported at earlier stages of the compliance procedure, GRECO concludes that proper appeal mechanisms for decisions on the recruitment and promotion of judges have been put in place, while this is not the case in respect of dismissals.
39. GRECO concludes that recommendation vii remains partly implemented.

#### **Recommendation viii.**

40. *GRECO recommended (i) that the role of the Ministry of Justice in disciplinary proceedings against judges be reviewed; (ii) that adequate safeguards be put in place to ensure that disciplinary proceedings are not used as an instrument of influence or retaliation against judges, including the possibility for judges to challenge disciplinary decisions before a court.*
41. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. Part (i) of the recommendation remained not implemented as the Ministry of Justice still preserved the right to initiate disciplinary proceedings against judges. Part (ii) of the recommendation remained partly implemented pending the introduction of a proper appeal mechanism for disciplinary decisions concerning judges.
42. The authorities now report that the March 2020 amendments to the Judicial Code provide for the inclusion of two representatives of non-governmental organisations in the composition of the Ethics and Disciplinary Commission under the Assembly of Judges, which is one of the bodies competent to initiate disciplinary procedures against judges<sup>3</sup>. The authorities recall the grounds and requirements for initiating such procedures, including the requirement for the motion to be substantiated. They insist that, since related decisions are to be made by the SJC, which is an independent body, it is immaterial who initiates the procedure. Moreover, bearing in mind the

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<sup>3</sup> At present, the following bodies have powers to initiate disciplinary procedures against judges: the Minister of Justice, the Ethics and Disciplinary Commission under the Assembly of Judges and the Commission for the Prevention of Corruption (CPC).

changes in the composition of the Ethics and Disciplinary Commission, more time is needed to evaluate its work and efficiency before ascertaining whether it can be made solely responsible for initiating disciplinary procedures. The authorities further report that the SCJ takes the view that the Minister of Justice should conserve a disciplinary role and they refer to the new mechanism allowing a review by the SCJ of its own decisions on judges' dismissal if new circumstances arise (cf. recommendation vii above).

43. GRECO takes note of the above information. With respect to part (i) of the recommendation, it reiterates its position that the role of the Minister of Justice in disciplinary procedures against judges should be discontinued as it is not compatible with judicial independence. Given the absence of new developments in this regard, this part of the recommendation remains not implemented. Regarding part (ii) of the recommendation, the inclusion of representatives of non-governmental organisations in the Ethics and Disciplinary Commission as well as the possibility for the SJC to re-open a disciplinary case if new circumstances arise are positive developments. The latter, mechanism however, does not qualify as a proper appeal. GRECO reiterates its concern that it is still not possible to challenge a disciplinary decision (including dismissal, see recommendation vii) before a court and concludes that this part of the recommendation remains partly implemented.
44. GRECO concludes that recommendation viii remains partly implemented.

#### **Recommendation ix.**

45. *GRECO recommended that effective rules and mechanisms be introduced for identifying undue interference with the activities of judges in the administration of justice and for sanctioning judges who practice or seek such interference.*
46. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO noted that the 2018 Judicial Code banned interference with the activities of a court or a judge in connection with the administration of justice and included detailed procedures for reporting and processing cases of undue interference whether by a judge or a third party. The Code also provided for disciplinary sanctions to punish judges interfering with the administration of justice by other judges and those who failed to report undue interference with their activities. However, information on the practical application of these rules and preventive measures taken was not provided.
47. The authorities now refer to two cases where judges applied to the SJC to report interference with their activities (in the first case – by means of publications in the media, and in the second case - as the result of a judge being questioned by an investigator of the Special Investigation Service in the framework of a criminal case). The SCJ discussed those cases and filed motions with the relevant bodies, i.e. the Prosecutor General's Office in the first case and the Head of the Special Investigation Service in the second case. Both cases are currently on-going.
48. The authorities also add that in 2020, 226 judges and 5 candidate judges attended an Academy of Justice course on "Independence and transparency of the judiciary". This regular course is aimed at expanding the knowledge of internal and external aspects of the independence of the judiciary (legal bases, guarantees, etc.) and preventing interference in the activities of a court or a judge, in accordance with the 2018 Judicial Code.
49. GRECO welcomes the preventive measures taken (in the form of awareness and training) to prevent undue interference in the activities of judges in the administration of justice. However, as regards the practical application of the rules



introduced by the 2018 Judicial Code, it insists that more tangible results need to be shown in order to fully comply with the recommendation. It recalls paragraph 158 of the Evaluation Report, which refers to the prevalent practices of lower court judges consulting higher court judges out of fear that judgments will be reversed and judges disciplined for “illegal rulings”. It does not appear that sufficient attention has been paid to such cases nor that judges interfering with the administration of justice by other judges or those who failed to report undue interference with their activities have been properly sanctioned, as is required by the recommendation. In view of the foregoing, this recommendation remains partly implemented.

50. GRECO concludes that recommendation ix remains partly implemented.

**Recommendation xi.**

51. *GRECO recommended that a deliberate policy for preventing improper influences on judges, conflicts of interest and corruption within the judiciary be pursued which includes (i) the provision of on-going mandatory training to all judges on ethics and conduct, on judicial impartiality and independence and on the prevention of conflicts of interest and corruption, which is to be organised with strong involvement of the judiciary, and (ii) the provision of confidential counselling within the judiciary in order to raise judges’ awareness and advise them with regard to the areas mentioned under (i).*

52. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO appreciated the inclusion of specialised courses focusing on rules of conduct and corruption prevention for judges in the regular training for the judiciary delivered to a large number of candidate judges and judges in 2019. Part (i) of the recommendation had therefore been addressed satisfactorily. Part (ii) of the recommendation remained not implemented as no relevant information on confidential counselling for judges was given.

53. The authorities now report that parts 4 and 5 of Article 66 of the Judicial Code were invalidated by legislative revisions carried out in March 2020. The mentioned parts had the following content: “The Disciplinary Committee shall make advisory comments on the rule of conduct of a judge, on the basis of a written application of the persons provided for in paragraphs 1 and 2 of this Article”. Currently, a reflection processes is on-going which is likely to result in the creation, through legislation, of a body that will be at the same time neutral and competent to provide judges with confidential counselling on ethical conduct.

54. With respect to the pending part (ii) of the recommendation, GRECO notes that the Ethical and Disciplinary Commission – a single disciplinary body for judges - is no longer entitled to issue advisory interpretations of the rules of judicial conduct at the request of judges. This development reflects the GRECO standard that confidential counselling should preferably be provided by a body that is separate from any disciplinary mechanisms. Pending further improvements, namely, the establishment of a neutral and competent body to provide confidential counselling to judges, GRECO concludes that this part of the recommendation remains not implemented.

55. GRECO concludes that recommendation xi remains partly implemented.

*Corruption prevention in respect of prosecutors*

**Recommendation xv.**

56. *GRECO recommended that a deliberate policy for preventing improper influences on prosecutors, conflicts of interest and corruption within the prosecution service be*

*pursued which includes (i) the provision of on-going mandatory training to all prosecutors on ethics and conduct, on impartiality and independence and on the prevention of conflicts of interest and corruption, and (ii) the provision of confidential counselling within the prosecution service in order to advise prosecutors and raise their awareness with regard to the areas mentioned under (i)*

57. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO welcomed the delivery of new mandatory training for prosecutors on ethics, corruption prevention, etc., in 2019 and that such training courses were also foreseen for 2020. GRECO also noted that a counselling mechanism for prosecutors had been set up. However, it was not distinct from the disciplinary bodies and had just started operating.
58. The authorities now report, with regard to part (i) of the recommendation, that in 2020, in the framework of the programme for professional training of candidate prosecutors, 45 persons attended the course on "Current issues of combating corruption in the public service and the rules of conduct of a prosecutor". The same course was attended by 72 prosecutors in early 2021. Courses on ethics and conduct, impartiality and independence, conflict of interests and prevention of corruption were included in the regular, mandatory training programme of the Academy of Justice for 2020 but not delivered.
59. Regarding part (ii) of the recommendation, the authorities largely reiterate the information reported previously, namely that a special commission to provide ethical advice to prosecutors was established in April 2019. However, it is now headed by the Deputy Prosecutor General who is not a member of the Ethics Commission under the Prosecutor General, a body which delivers opinions on candidate prosecutors, promotion and liability. Reference is furthermore made to the same practical example of the commission' activities as cited in the Second Compliance Report<sup>4</sup>. To date, the Commission has received no other applications.
60. GRECO notes the delivery of training on ethics and corruption prevention to some prosecutors and candidate prosecutors. However, this does not equate with dedicated, mandatory and regular training for all prosecutors asked for in the recommendation. While the counselling mechanism for prosecutors has been separated from the disciplinary body, the only example given of the practical operation of this mechanism was already reported on at the previous stage of the compliance procedure. GRECO understands that, during the reporting period, this mechanism has remained dormant, which is a source of concern. GRECO also notes that although counselling on incompatibilities and other restrictions (but not on prosecutorial ethics) is to be provided to prosecutors by the CPC, no related information has been reported due to the fact that such requests are not registered by the CPC. In view of the foregoing, GRECO concludes that both parts of the recommendation remain partly implemented.
61. GRECO concludes that recommendation xv remains partly implemented.

*Regarding all categories of persons*

#### **Recommendation xvi.**

62. *GRECO recommended that the rules applicable to the acceptance of gifts by members of parliament, judges and prosecutors be further developed so as to provide clearer*

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<sup>4</sup> In August 2019, a counselling request was made in a case related to possible disciplinary misconduct. In this case the commission consulted with the Consultative Council of European Prosecutors and decided that there was no violation of disciplinary rules.

*definitions to ensure that they cover any benefits – including benefits in kind and benefits provided to associated persons; to introduce a requirement to report gifts received to an appropriate monitoring body; and in the specific case of judges, to lower the existing thresholds for such reporting.*

63. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO welcomed the enhanced provisions on gifts in the new Public Service Law and in the new Judicial Code. The new legal framework prohibited gifts as a main rule, specified what constituted a permissible gift and set out the reporting and registration procedures. Several vague terms, however, were not clarified. The threshold for reporting gifts remained rather high. Finally, the CPC had only recently been established and was yet to monitor compliance with restrictions on gifts.
64. The authorities now refer to the regulations on the acceptance of gifts contained in the Public Service Law and the Judicial Code as amended in March 2020 (made available to GRECO).
65. GRECO notes that, although both the Public Service Law and the Judicial Code still contain several vague terms relating to the definition of acceptable gifts<sup>5</sup>, in relation to most of them the situation has been remedied by the requirement to report such gifts if they exceed an established threshold (€ 95 for single gifts received by MPs, judges and prosecutors, and € 385 for gifts received by judges from the same source, except from a close relative, in a calendar year). GRECO is also pleased that the reporting thresholds have been lowered considerably. However, some gifts and hospitality are not to be reported which is a source of concern.<sup>6</sup> A procedure for registering permissible gifts is only in the preparatory stage (also cf. recommendation iv above). Finally, information on the interpretation and enforcement of gifts-related rules by the CPC (with respect to MPs and prosecutors) and by the Ethics and Disciplinary Committee (with respect to judges) remains to be provided.
66. GRECO concludes that recommendation xvi remains partly implemented.

#### **Recommendation xviii.**

67. *GRECO recommended that appropriate measures be taken to ensure effective supervision and enforcement of the rules on asset declaration applicable to members of parliament, judges and prosecutors, notably by strengthening the operational independence of the Commission on Ethics for High-Ranking Officials, giving it the clear mandate, powers and adequate resources to verify in depth the declarations submitted, to investigate irregularities and to initiate proceedings and impose effective, proportionate and dissuasive sanctions if the rules are violated.*
68. This recommendation was partly implemented at the time of adoption of the Second Compliance Report. GRECO noted the transfer of the function of monitoring asset declarations from the Commission on Ethics of High-Ranking Officials to the CPC. Amendments to the Law on the CPC were adopted which removed the competition board from the process for the appointment of CPC members. Five CPC commissioners were elected by Parliament on the basis of a list of candidates directly nominated by the Government, the ruling coalition and opposition factions in

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<sup>5</sup> Definition of a gift as “any property advantage that would reasonably not be given to a person not holding a public function/a non-judge” or exceptions not considered as gifts – “gifts usually given at public events”, “gifts usually given as part of everyday hospitality”. Cf. also paragraphs 225-226 of the Evaluation Report.

<sup>6</sup> For example, “hospitality usually organised”, “scholarship, grants or benefits awarded in a public competition on the same conditions and criteria as those which apply to other applicants, or a result of another transparent procedure” (for MPs and prosecutors) and gifts from relatives if their nature and amount “reasonably correspond to the nature of the relationship between them” (for judges).

Parliament and the SJC. Such a model, in GRECO's view, incurred a significant risk of politicisation, which had to be remedied. Regarding the verification of asset declarations, GRECO took note of a study on patterns of conflicts of interest conducted by the Commission on Ethics of High-Ranking Officials and of administrative cases initiated by it in response to violations of financial disclosure rules. Given that the system was in transition, its effectiveness was to be re-assessed at a later stage.

69. The authorities now report that the Law on the CPC was amended in March 2020 and January 2021. It reinstated the system whereby candidate CPC members are to be elected by a competition board composed of five members appointed respectively by the Government, the National Assembly, the Supreme Judicial Council, the Human Rights Defender and the Chamber of Advocates.
70. The authorities also inform that the system of asset disclosure has undergone significant modifications since March 2020 as summarised in the table below:

<ul style="list-style-type: none"><li>- interest declarations were introduced in January 2020 and expenses<sup>7</sup> declarations in January 2021;</li><li>- disclosure was extended to family members of public officials residing in the same household;</li><li>- the total number of declarants increased three-fold to almost 35 000 individuals (public officials and their family members);</li><li>- declaration requirements extended to: property actually managed by public officials; financial means split into cash, non-cash, cryptocurrency, etc.; sources of financial assets;</li><li>- the CPC was granted additional powers: to request situational income and asset declarations from third parties and close relatives<sup>8</sup> who engage in transactions with public officials; to obtain financial, including banking information through the lifting of banking secrecy; to request a situational declaration from the public official if, within two years of termination of official duties, a significant change in his/her assets is suspected;</li><li>- a new format for asset declarations was adopted by the Government in January 2020;</li><li>- the scope of publicly available data from asset declarations was enlarged (<a href="#">Government decision N 306-N dated March 12 2020</a>);</li><li>- the CPC developed detailed guidelines on the completion of declarations, which are publicly accessible together with FAQ documents and video tutorials.</li></ul>
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71. Since November 2019, the CPC has carried out a large range of activities. It elaborated a comprehensive methodology and an internal procedure for the analysis of asset declarations and is currently working on a methodology for analysing expenses' declarations. Risk indicators were developed for assets and income as well as incompatibilities and conflicts of interest to ensure a concentration of resources on cases carrying the most serious risks. The authorities underline that the analysis of asset declarations is an ongoing activity of the CPC that consists of four stages: compliance check, formal check, plausibility check and audit check. A declaration analysis tool is used to carry out a holistic review of the property and income of public officials and their relatives. The CPC is making a particular effort to ensure that its analyses are consistent. A call for tenders was recently announced for the development of a new digital platform for asset declarations. Relevant statistics for 2020 are provided below:

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<sup>7</sup> Single gifts are to be reported on an asset declaration if their value exceeds € 340.

<sup>8</sup> This necessitated introducing amendments to the Judicial Code and a number of other laws, which was done as well on 25 March 2020.

- total number of asset declarations analysed in 2020 – 637, of which 400 declarations of judges, 30 of MPs and 2 of prosecutors;
- total number of verifications conducted by type of declarant: public officials – 42 (including 10 MPs, 18 judges and 2 prosecutors), family members – 105;
- number of administrative proceedings initiated - 61, of which 59 resulted in an administrative prevention (warning) and 2 in an administrative sanction in the amount of 200 000 Armenian dram (€ 317);
- number of administrative sanctions applied by court or another final decision-making body for the following offences: non-submission of a declaration – 59 (including in respect of 1 judge), false declaration – 2 (including in respect of 1 MP);
- number of individual counselling on COI issues provided – 35 (including in respect of 1 judge);
- number of opinions issued on CoI matters – 4 (including in respect of 1 MP), of which 1 requiring a further sanction by the respective authority;
- number of opinions issued on incompatibilities - 2, of which 1 requiring termination of an MP's mandate;
- number of opinions issued on conduct – 1.

72. GRECO takes note of the information provided. Concerning the institutional set-up of the system, GRECO understands that the new rules foreseeing the reinstatement of a competition board in the process for the appointment of CPC members would only apply for subsequent CPC formations. Four of the five commissioners were elected on the basis of the former rules that had been criticised in the Second Compliance Report. The positive measure for strengthening the operational independence of the CPC has therefore not taken effect yet<sup>9</sup>.

73. Concerning the verification of asset declarations, GRECO notes the significant changes made to the system for interest and asset disclosure since March 2020 which are accompanied by a substantial widening of the functions of the CPC. However, a corresponding increase in the resources of the CPC has not been reported. Also, the above statistics do not compare favourably to those shared previously in respect of the CPC's predecessor, the Commission on Ethics of High-Ranking officials<sup>10</sup>, which makes it difficult to ascertain the effectiveness of the current supervision and enforcement regime. To conclude, on the whole the measures taken so far go in the right direction but the system remains relatively new and more time will be needed for it to produce credible results.

74. GRECO concludes that recommendation xviii remains partly implemented.

### **III. CONCLUSIONS**

75. **In view of the foregoing, GRECO concludes that some limited steps have been made by Armenia to comply with the pending recommendations under the Fourth Evaluation Round. Of the eighteen recommendations included in the Fourth Round Evaluation Report, seven recommendations remain implemented satisfactorily.**

76. More specifically, recommendations v, vi, x, xii, xiii, xiv and xvii have been dealt with in a satisfactory manner and recommendations i-iv, vii-ix, xi, xv, xvi and xviii have been partly implemented.

<sup>9</sup> The risks to the CPC's independence are described e.g. in this article: [The Commission on Prevention of Corruption Needs More Transparency | Ampop.am](https://www.ampop.am/en/news/2021/03/09/the-commission-on-prevention-of-corruption-needs-more-transparency/). GRECO notes that the post of the fifth commissioner, which had remained vacant for several years, has been filled in in September 2021 in accordance with the new rules.

<sup>10</sup> Cf. paragraph 82 of the Second Compliance Report.

77. With respect to members of parliament, transparency of the legislative process remains to be prioritised, placing the emphasis on the involvement of the public in the law-making process and the use of “urgent procedures”. A draft code of ethics for MPs and draft amendments to the National Assembly’s Rules of Procedure intended to establish a mechanism to monitor members’ compliance with ethical norms have been developed but have not yet been presented to GRECO for scrutiny. Supervision of MPs’ side activities has become more systematic but is yet to yield tangible results.
78. With regard to the judiciary, the role of the Minister of Justice in disciplinary procedures against judges has not been discontinued and the current situation is not compatible with judicial independence. Proper appeal mechanisms have been provided for decisions on the recruitment and promotion of judges but not for dismissal decisions. While the internal counselling mechanism for prosecutors has been separated from the disciplinary bodies, there is no evidence of its operation in practice nor of counselling on incompatibilities and other restrictions being offered to prosecutors by the Corruption Prevention Commission (CPC). Dedicated, mandatory and regular training on ethics, etc. for all practising prosecutors is yet to be introduced.
79. Finally, concerning members of parliament, judges and prosecutors, enhanced provisions on gifts are noted but it has not been confirmed whether a procedure for registering permissible gifts is in place. Also, appropriate measures are still to be taken to ensure the effective supervision and enforcement of rules on asset declaration, conflicts of interest, incompatibilities and gifts by the CPC. Measures taken to strengthen operational independence of the CPC are yet to take effect and its resources are to be made commensurate with its substantially increased mandate and powers.
80. In light of the foregoing, GRECO notes that the current level of compliance with the recommendations remains “globally unsatisfactory” in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. Pursuant to paragraph 2, subparagraph i, of Article 32 of the Rules of Procedure, GRECO asks the head of the Armenian delegation to provide a report on the measures taken to implement the outstanding recommendations (namely, recommendations i-iv, vii-ix, xi, xv, xvi and xviii) as soon as possible, but – at the latest – by 30 September 2022.
81. In addition, in accordance with Rule 32, paragraph 2(ii)(a), GRECO invites its President to send a letter – with a copy to the President of the Statutory Committee – to the head of delegation of Armenia, drawing her attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving substantive progress as soon as possible
82. Finally, GRECO invites the authorities of Armenia to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make the translation public.