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

INTERIM COMPLIANCE REPORT

ANDORRA

Adopted by GRECO at its 89th plenary meeting
(Strasbourg, 29 November – 3 December 2021)

I. INTRODUCTION

1. This Interim Compliance Report assesses the measures taken by the Andorran authorities to implement the recommendations made in the Fourth Round Evaluation Report on Andorra (see paragraph 2) dealing with "Corruption prevention in respect of parliamentarians, judges and prosecutors".
2. The Fourth Round Evaluation Report on Andorra was adopted by GRECO at its 76th plenary meeting (23 June 2017) and made public on 2 November 2017, following authorisation by the Andorran authorities ([GrecoEval4Rep\(2016\)8](#)). The corresponding Compliance Report was adopted by GRECO at its 85th plenary meeting (21-25 September 2020) and made public on 7 October 2020 ([GrecoRC4\(2020\)3](#)). In that report, GRECO concluded that only three of the thirteen recommendations had been implemented satisfactorily, three had been partly implemented and seven had not been implemented. It found that the very low level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3, of the Rules of Procedure. It therefore decided to apply Rule 32, paragraph 2 (i), concerning members found not to be in compliance with recommendations in mutual evaluation reports and invited the head of the Andorran delegation to submit a report on the progress made in implementing the outstanding recommendations. That report was received on 30 September 2021 and served as a basis for writing this report.
3. GRECO asked Monaco (in respect of parliamentary assemblies) and Luxembourg (in respect of judicial institutions) to appoint rapporteurs for the compliance procedure. The rapporteurs appointed were Jean-Marc Gualandi for Monaco and David Lentz for Luxembourg. They were assisted by the GRECO Secretariat in drawing up this Interim Compliance Report.
4. This Interim Compliance Report evaluates the implementation of the recommendations outstanding since the adoption of the Compliance Report and provides an overall appraisal of the level of Andorra's compliance with these recommendations.

II. ANALYSIS

5. In its Evaluation Report, GRECO made 13 recommendations to Andorra. In the subsequent Compliance Report, GRECO concluded that recommendations ix, xi and xii had been implemented satisfactorily, recommendations vi, x and xiii had been partly implemented and recommendations i-v, vii and viii had not been implemented. Compliance with the 10 outstanding recommendations is therefore considered below.

Preventing corruption of members of parliament

Recommendation i.

6. *GRECO recommended that consideration be given to the introduction of a public consultation procedure in connection with legislative proceedings.*
7. GRECO points out that this recommendation was regarded as not having been implemented in the Compliance Report. It noted some progress in terms of transparency, such as the amendments to the Andorran Parliament's Rules of Procedure which make it mandatory to publish information on all parliamentary proposals for legislation and the progress made with them in a form that facilitates data processing. However, GRECO noted that the measures initiated did not provide for any formal public consultation process.

8. The Andorran authorities now explain that a draft law on transparency and access to public information which is intended to enhance civic engagement is currently being discussed in Parliament. Work in the parliamentary committee has been finalised and the law was adopted in plenary session on 3 December 2021. A chapter about “open government” has been included in this draft law. It provides in particular for citizen participation and collaboration in the definition of public policies, through: an open governance platform to be set up by public administrations; the obligation for the administration to establish rules for effective procedures for citizen participation and collaboration; and a right to citizen participation and to formulated proposals for popular regulatory initiatives.
9. The authorities also underline that in view of Andorra’s institutional make-up and size (approximately 78 000 inhabitants), a consensus between the parties involved in a proposal for legislation and civil society is sought from the stage when the parliamentary groups carry out their work. This process of seeking a consensus is conducted not through institutionalised public consultations, but through a number of practical processes: participation in national discussions; petitions from members of the public submitted to those empowered to propose legislation; hearings in committees and in parliament; participation in the activity of auxiliary bodies and preliminary working groups.
10. A useful tool in this regard is the civic engagement platform www.visc.ad, which is used to ascertain the public’s opinion on a particular issue or draft law or to build momentum behind a consensus before legislation is proposed. This tool has been used to conduct consultations over several pieces of legislation, such as the draft law on effective equality of the right to non-discrimination and gender equality that is currently before Parliament. During the initial stage, this legislation was prepared jointly by civil society (feminist civil society organisations) and public institutions (Government and General Council – Parliament). The text of the draft was initially sent for comment to stakeholders, and then posted online for two months on the www.visc.ad platform in order to obtain comments from civil society as a whole. A large number of these comments were added to the final draft law.
11. More generally, the General Council, the Government and local authorities have initiated round table discussions with public participation as part of the “*Andorra, Reptes de futur*” project. These round table discussions between civil society and some of its representative bodies, Andorran institutions and guest experts seek to forge a consensus in public debate and identify the best solutions to future challenges so as to enhance the legitimacy of regulations, legislation or future public initiatives while also taking social needs into account.
12. GRECO takes note of the information provided. Although Andorran law does not make any provision for a formal public consultation process as part of legislative proceedings, it considers that all of the reported measures that seek to build a social consensus and engage with civil society, and in particular the civic engagement platform www.visc.ad, address the aim of the recommendation, which was to make it easier for members of the public, in parallel with civil society organisations, to air their views on legislative proceedings. In this respect, the Andorran authorities have gone further than the recommendation, which merely asked them to consider introducing a public consultation process. GRECO encourages the use of this civic engagement platform for all important proposed legislation.
13. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

14. *GRECO recommended that a code of conduct, accompanied by explanatory comments and/or concrete examples, be adopted for the members of the General Council and that it be brought to the knowledge of the public.*
15. GRECO points out that this recommendation was deemed not to have been implemented because the process of developing a code of conduct for members of the General Council was only at an early stage and no draft had been drawn up.
16. The Andorran authorities state that although parliamentary activity has been slowed down by the COVID-19 pandemic, the parliamentary committee tasked with writing the code of conduct has held 13 meetings and its work is in its final stage. A draft code of conduct has been drawn up and is being debated one article at a time. It covers general principles, conflicts of interest, parliamentarians' diaries, gifts and travel expenses, among other things. The code of conduct is due to be submitted to parliamentarians for approval in the near future.
17. GRECO takes note that a draft code of conduct for members of the General Council has been drawn up. It appears to deal with most of the areas mentioned in the Evaluation Report as requiring regulation. It has been produced by a committee that represents all parliamentary groups, which is to be welcomed. GRECO would nonetheless like to examine the detail of the adopted provisions before expressing a view as to whether the recommendation has been implemented fully.
18. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

19. *GRECO recommended introducing an obligation to declare any conflict between a General Council member's specific private interests and a matter examined in parliamentary proceedings (plenary session and in committee), irrespective of whether such a conflict could also be identified under a system of public declaration of interests and activities.*
20. GRECO points out that this recommendation was regarded as not having been implemented in the previous report because no specific obligation to declare a conflict of interest arising when a particular matter is considered by the General Council had been instituted.
21. The Andorran authorities report that the draft code of conduct mentioned in recommendation ii includes a chapter about conflicts of interest. This chapter provides that the General Council member who is in a conflict of interest will be obliged to report it in writing to the *Sindicatura* (Bureau of Parliament) and the relevant parliamentary committee and will have to be replaced by another Council member during the proceedings in committee. This obligation will also be included in the future regulations of each parliamentary group.
22. GRECO takes note with satisfaction of the provisions in the draft code of conduct concerning the obligation for parliamentarians to declare ad hoc conflicts of interest and be replaced during the relevant proceedings in committee. These provisions appear to meet the requirements of the recommendation. However, since the draft code of conduct has not yet been adopted, the recommendation has been only partly implemented.
23. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

24. *GRECO recommended (i) that a system for the public declaration of General Council members' assets and interests containing quantitative data on financial and business interests (income, assets and significant debt items) be introduced and (ii) that consideration be given to including information on parliamentarians' spouses and dependent family members (on the understanding that this information would not necessarily be made public).*
25. GRECO points out that this recommendation was regarded as not having been implemented in the Compliance Report. This was because the proposed law on transparency and access to public information provided for the setting up of an asset disclosure system applicable to parliamentarians, but it also provided that these declarations would remain confidential. The second part of the recommendation was linked to the first part and the inclusion of information about spouses and dependent family members had not been considered by the authorities.
26. The Andorran authorities now state that the proposed law on transparency and access to public information that was adopted on 3 December 2021 makes provision for the introduction of a system of private declaration of assets before a notary for parliamentarians and other authorities. These declarations must be filed within three months of taking up and leaving office. They are confidential and can only be consulted by the persons concerned or by the competent authority in the context of legal proceedings. The authorities underline that this is an important step towards transparency in Andorran politics. As they did in the previous report, they point out that Andorra is unquestionably committed to tackling corruption while also avoiding excessively direct and uncontrolled exposure of private property, which, in view of the country's size, would deter Andorrans from participating in politics.
27. Rule 8 of the General Council's Rules of Procedure currently provides that "parliamentarians must submit their political and professional curriculum vitae and must declare the public offices they hold and, where applicable, incompatible posts from which they resign, in the format approved by the Court of Auditors." They must also declare positions that they hold in private companies and their professional activities. This information is declared to the Secretary General of the General Council Bureau and is checked by the Permanent Commission. The information concerning the political and professional CV is also made public¹. The internal services of the General Council are currently working on the installation of a new computer software that will allow an easier consultation of these CVs, in accordance with the future law on transparency. Changes must also be declared within one month to the Standing Committee. It is envisaged that these provisions will be retained after the law on transparency and access to public information enters into force.
28. GRECO takes note of the information provided. The obligation for parliamentarians to declare their positions and activities is a positive development, but it does not fully meet the requirements of the recommendation, as declarations are not made public. GRECO repeats that it understands the situation as regards the country's size and the closeness of the ties between its citizens, but underlines that transparency of elected representatives' activities is an important aspect of democracy and itself prevents risks of corruption in relation to parliamentarians' conflicts of interest. This is all the more relevant in Andorra because the majority of parliamentarians work part time. The first part of the recommendation has therefore been partly implemented.

¹ www.consellgeneral.ad

29. The second part of the recommendation has still not been implemented, as the authorities have not provided any information indicating that there are plans to include details of the financial and business interests of spouses and dependent family members in parliamentarians' declarations.

30. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

31. *GRECO recommended that measures be taken to ensure appropriate supervision and enforcement of future disclosure obligations and standards of conduct for parliamentarians.*

32. GRECO points out that this recommendation was considered not to have been implemented because the authorities had not taken any measures.

33. The Andorran authorities explain that Rule 8 of the Rules of Procedure of the General Council provide that a report shall be drawn up by the Standing Committee in relation to the situation of parliamentarians once the latter have declared their positions and activities. In addition, the draft Code of conduct establishes a procedure for monitoring and sanctioning violations of the standards of conduct (art. 18 to 22 of the draft). The *Sindicatura* is the guarantor of compliance with the Code and may initiate a verification procedure by the Permanent Commission in case of suspected infringement. The Commission, after having heard the General Councillor concerned, formulates a report, a recommendation or a proposal to the *Sindicatura*. The sanctions provided for are a public reprimand and/or a fine of between €500 and €5000. The sanctioned Councillor may request a review and the sanctions may be appealed to the Constitutional Court.

34. GRECO notes with satisfaction that the draft Code of conduct foresees a supervision and sanction regime that fulfils the requirements of the recommendation. However, the Code has not been adopted yet.

35. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

36. *GRECO recommended (i) that training and awareness-raising measures be introduced for members of parliament with regard to the ethical conduct expected of them and the issuance of declarations of interests and (ii) that members of parliament be able to benefit from confidential advice on any issue of ethics or professional conduct.*

37. GRECO points out that the first part of the recommendation had been regarded as having been partly implemented, and the second part as not implemented in the Compliance Report. This was because a review of an initial and continuing training system for General Council members was under way. Shortly after being elected, they also received information about incompatibilities and conflicts of interest. No specific measures had been taken to give effect to the second part of the recommendation.

38. With regard to the first part of the recommendation, the Andorran authorities report that the Code of Conduct for General Council members that is under discussion provides that training on professional conduct, ethics and conflicts of interest shall be given to parliamentarians at the beginning of their term of office by the Secretary general or a person delegated for this purpose. As for the second part of the recommendation, the Standing Committee can, of its own accord or upon request by

a parliamentarian, request external, specific and confidential advice on the aforementioned topics. The costs of this external advice will be covered by the General Council.

39. GRECO notes that the future Code of Conduct for General Council members provides for initial training for parliamentarians on matters of professional conduct, ethics and conflicts of interest. Because the Code has not yet been adopted, these measures have not yet been implemented and GRECO would like to receive fuller details of training that has actually been planned and provided in its next report. The first part of the recommendation therefore remains partly implemented.
40. With regard to the second part of the recommendation, GRECO notes that the future Code of Conduct provides for a system of external confidential advice on matters of professional conduct and conflicts of interest. This system is consistent with the recommendation and so this part has also been partly implemented. However, it would be a positive development if parliamentarians could seek this external advice without going through the Standing Committee, so that their use of this system also remains confidential.
41. GRECO concludes that recommendation vi remains partly implemented.

Corruption prevention in respect of judges

Recommendation vii.

42. *GRECO recommended that the make-up of the High Council of Justice be changed to ensure that judges and prosecutors elected by their peers are appropriately represented within its membership.*
43. GRECO points out that this recommendation had not been implemented. The Andorran authorities had explained that a constitutional amendment would be necessary to change the make-up of the High Council of Justice. The Government, members of the judiciary and the High Council itself were not opposed to the principle of this reform, but the authorities wanted a constitutional amendment to cover a number of issues rather than just this one. As a result, no action had been taken to this end.
44. The Andorran authorities have provided no new information.
45. GRECO concludes that recommendation vii remains not implemented.

Recommendation viii.

46. *GRECO recommended that consideration be given to appointing judges for an indefinite term of office.*
47. GRECO points out that this recommendation had not been implemented according to the previous report, as this issue had not been formally considered.
48. The Andorran authorities now state that following an amendment to the Justice Act, judges' terms of office are now renewed automatically unless disciplinary proceedings are ongoing against them or a disciplinary sanction has been imposed. Article 68.3 of the Justice Act provides that "the High Council of Justice shall accept the renewal of the term of office of *batlles* [judges of the *Batllia*] and judges [...]. The High Council of Justice can decide not to renew the terms of office of *batlles* and judges if the person concerned has been sanctioned for two instances of serious misconduct or one very serious instance without removal from office, where the penalties imposed

are not subject to a limitation period [...]". The authorities underline that no member of the judiciary has ever been excluded from this body, either before or since this change in the law.

49. GRECO takes note of the new wording of Article 68.3 of the Justice Act, which provides for automatic renewal of judges' terms of office except in the event of disciplinary proceedings or sanctions. Although the issue of appointing judges for an indefinite period does not appear to have been formally examined, GRECO believes that the new wording of Article 68.3 fulfils the aim of the recommendation.
50. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

Recommendation x.

51. *GRECO recommended (i) that training on various topics relating to ethics and integrity continue to be provided on a regular basis for judges, and (ii) that the possibility for judges to obtain confidential advice about these subjects be placed on a permanent and institutional footing.*
52. GRECO points out that this recommendation had been regarded as having been partly implemented. The first part had been deemed to have been implemented satisfactorily, because the High Council of Justice was continuing to provide regular ethics and integrity training to all judges. However, the second part had not been implemented, as discussions with a view to creating a permanent system of confidential advice on matters of ethics were only at a very early stage.
53. With regard to the second part of the recommendation which has yet to be implemented, the Andorran authorities report that the High Council of Justice is in the process of developing a proposed amendment to the Justice Act to include the setting up of an ethics committee or department that judges can approach for confidential advice. The way in which this department will operate will be established in a regulation to be drafted by the High Council of Justice.
54. GRECO welcomes the current work to set up a confidential advice service for judges. However, this work is only at a preliminary stage, as the proposed amendment to the Justice Act has not yet been tabled in Parliament. GRECO can therefore only conclude that the second part of the recommendation remains not implemented for the time being.
55. GRECO concludes that recommendation x remains partly implemented.

Corruption prevention in respect of prosecutors

Recommendation xiii.

56. *GRECO recommended (i) that training on various topics relating to ethics and integrity continue to be provided on a regular basis for prosecutors and (ii) that the possibility for prosecutors to obtain confidential advice on these subjects be placed on a permanent and institutional footing.*
57. GRECO points out that this recommendation had been regarded as having been partly implemented in the previous report. As in relation to judges, the first part had already been implemented satisfactorily, because the High Council of Justice was continuing to offer ethics and integrity training regularly to all members of the judiciary, including prosecutors. The second part of the recommendation had not been implemented, as the discussions with a view to creating a permanent system to

provide prosecutors with confidential advice on these topics were still at a very early stage.

58. With regard to the second part of the recommendation, the Andorran authorities reiterate the information provided in relation to recommendation x, i.e. the High Council of Justice is in the process of developing a proposal to amend the Justice Act in order to include the setting up of an ethics committee or department to provide confidential advice to judges and prosecutors at their request. The way in which this department will operate will be established in a regulation to be drafted by the High Council of Justice.
59. GRECO once again welcomes the ongoing work to create a permanent system of confidential advice on topics relating to ethics for judges and members of the Public Prosecution Service. However, given the stage that this work has reached, it is still unable to conclude that the second part of the recommendation has been implemented, even partly.
60. GRECO concludes that recommendation xiii remains partly implemented.

III. CONCLUSIONS

61. **In the light of the foregoing, GRECO concludes that Andorra has now satisfactorily implemented or satisfactorily dealt with five of the thirteen recommendations in the Fourth Round Evaluation Report.** Of the other recommendations, seven have now been partly implemented and one remains not implemented.
62. More specifically, recommendations i, ix, xi and xii have been implemented satisfactorily, recommendation viii has been dealt with satisfactorily, recommendations ii, iii, iv, v, vi, x and xiii have been partly implemented and recommendation vii remains not implemented.
63. With regard to corruption prevention in respect of parliamentarians, several steps forward have been taken. The authorities have taken several measures, such as setting up an online civic engagement platform to facilitate public participation in connection with legislative proceedings. A draft code of conduct for parliamentarians is being discussed by the General Council, and it includes an obligation for parliamentarians to declare conflicts of interest and provides for a system of confidential advice on matters of ethics, as well as a system of supervision and sanction. A private declaration system for the interests and activities of General Council members has been introduced, but more progress needs to be made in terms of publishing this information.
64. With regard to corruption prevention in respect of judges and prosecutors, GRECO notes with satisfaction the amendment of the Justice Act which provides for automatic renewal of judges' terms of office except in the event of disciplinary liability. A permanent system of confidential advice on matters of ethics is being set up. However, the make-up of the High Council of Justice still needs to be changed to ensure that members of the judiciary elected by their peers are appropriately represented.
65. In view of the above, 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 the Rules of Procedure. GRECO therefore decides that it will not continue to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.

66. In accordance with paragraph 8.2 of Rule 31 of the Rules of Procedure, GRECO calls on the head of the Andorran delegation to submit to it a report on the progress made in implementing the outstanding recommendations (i.e., recommendations ii to vii, x and xiii) as soon as possible, and by 31 December 2022 at the latest.
67. GRECO invites the Andorran authorities to authorise the publication of this report at their earliest convenience, translate it into the national language and make this translation publicly available.