



Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 22 September 2021
Publication: 14 December 2021

Public
GrecoRC4(2021)14

FOURTH EVALUATION ROUND

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

SECOND ADDENDUM TO THE SECOND COMPLIANCE REPORT

NETHERLANDS

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

F
O
U
R
T
H

E
V
A
L
U
A
T
I
O
N

R
O
U
N
D

I. INTRODUCTION

1. The Second Addendum to the Second Compliance Report assesses the measures taken by the authorities of the Netherlands to implement the four pending recommendations issued in the Fourth Round Evaluation Report on the Netherlands (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report](#) on the Netherlands was adopted at GRECO's 60th Plenary Meeting (on 21 June 2013) and made public on 18 July 2013, following authorisation by the Netherlands.
3. The [Compliance Report](#) was adopted by GRECO at its 68th Plenary Meeting (on 19 June 2015) and made public on 26 August 2015, following authorisation by the Netherlands. It was concluded that the Netherlands had implemented satisfactorily or dealt with in a satisfactory manner only two of the seven recommendations contained in the Fourth Round Evaluation Report. GRECO concluded that the low level of compliance with the recommendations was "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the evaluation report, and asked the Head of delegation of the Netherlands to provide a report on the progress in implementing the pending recommendations.
4. An [Interim Compliance Report](#) was adopted by GRECO at its 73rd Plenary Meeting (on 21 October 2016) and made public on 8 December 2016, following authorisation by the Netherlands. GRECO concluded that the Netherlands had made progress in respect of some recommendations. Three of the seven recommendations had been implemented satisfactorily (ii, vi and vii), two recommendations had been partly implemented (i and iv) and two recommendations remained not implemented (iii and v). GRECO therefore concluded that the level of compliance with the recommendations was no longer "globally unsatisfactory". Application of Rule 32 was discontinued and the Netherlands was requested to submit additional information regarding the implementation of the outstanding recommendations.
5. The [Second Compliance Report](#) was adopted by GRECO at its 79th Plenary Meeting (on 23 March 2018) and made public on 14 June 2018, following authorisation by the Netherlands. GRECO concluded that the Netherlands had made very limited progress since the adoption of the Interim Compliance Report (four recommendations remained pending) and requested the Netherlands to submit additional information regarding the implementation of the outstanding recommendations.
6. The [Addendum to the Second Compliance Report](#) was adopted at GRECO's 84th Plenary Meeting (6 December 2019) and made public on 30 January 2020, following the authorisation by the Netherlands. GRECO concluded that some further progress had been made in implementing the pending recommendations. However, the number of pending recommendations remained unchanged: three of the seven recommendations had been implemented satisfactorily, three had been partly implemented and one recommendation remained not implemented.
7. As required by GRECO's Rules of Procedure, the authorities of Netherlands submitted a Situation Report with additional information regarding actions taken to implement the four pending recommendations. The Situation Report was received on 1 June 2021 and served as a basis for this Second Addendum to the Second Compliance Report.

8. GRECO selected Lithuania and Greece to appoint rapporteurs for this compliance procedure. The Rapporteurs appointed were Ms Živilė ŠADIANEC, on behalf of Lithuania and Ms Panagiota VATIKALOU, on behalf of Greece. They were assisted by GRECO's Secretariat in drawing up this report.

II. ANALYSIS

9. It is recalled that GRECO in its Evaluation Report addressed seven recommendations to the Netherlands. In the Addendum to the Second Compliance Report, recommendations ii, vi and vii had been implemented satisfactorily, recommendations i, iii and iv had been partly implemented and recommendation v had not been implemented. Compliance with the four pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendation i.

10. *GRECO recommended that codes of conduct for the members of both Chambers of Parliament be developed and adopted with the participation of their members and be made easily accessible to the public (including notably guidance on prevention of conflicts of interest, gifts and other advantages, accessory activities and financial interests, disclosure requirements, misuse of information, contacts with third parties such as lobbyists).*
11. This recommendation was considered partly implemented in the Addendum to the Second Compliance Report. GRECO had welcomed the adoption of a code of conduct for Senate members and concluded that, as far as the Senate was concerned, the recommendation had been complied with. GRECO also noted that a process to adopt a code of conduct for Members of the House of Representatives (lower chamber) was ongoing.
12. The authorities of the Netherlands now report on the adoption on 22 September 2020 of a Code of Conduct for members of the House (text made available to GRECO). The Code was published on the House's official website and intranet, integrated into a new brochure on integrity matters and a training programme for newly elected and re-elected MPs. Before its adoption, the draft code was submitted to a committee and a plenary hearing.
13. GRECO welcomes the adoption of the Code of Conduct for members of the House of Representatives which applies to the conduct in the exercise of MP's duties and to their other conduct if it may seriously damage the authority and dignity of the House. GRECO is satisfied that the Code represents a solid set of integrity rules and provides guidance *inter alia* on conflicts of interest, gifts, various registration requirements, ancillary activities, contacts with lobbyists and the applicability of certain integrity rules to MPs' close family members. Bearing in mind the developments reported earlier, GRECO concludes that all the requirements of this recommendation have now been met and that it has been implemented satisfactorily.
14. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation iii.

15. *GRECO recommended that appropriate measures be taken to ensure supervision and enforcement of the existing and yet-to-be established declaration requirements and other rules of conduct of members of Parliament.*

16. This recommendation was considered partly implemented in the Addendum to the Second Compliance Report. GRECO welcomed the provisions on supervision and enforcement included in the new Code of Conduct for the Senate members whereby an Internal Committee is to monitor compliance with the Code and to issue recommendations in case of breaches. This part of the recommendation had been dealt with in a satisfactory manner. As for the House of Representatives, the development of rules on the supervision of MPs' ethical conduct was underway.
17. The authorities of the Netherlands now report on the adoption and entry into force in April 2021 of a Regulation on the monitoring and enforcement of the Code of Conduct for members of the House of Representatives (cf. recommendation i). The Regulation establishes an independent Board of Inquiry on Integrity tasked by the House to deal with complaints regarding breaches of the Code. The Board consists of a chair and two members, nominated by the House's Presidium and appointed by the full House. Appointments are for five, six and four years respectively. An open call for applications was published in January 2021 and three candidates were formally appointed on 20 April 2021.
18. The authorities explain that anyone can lodge a complaint with the Board. To facilitate this, a complaint form including guidance has been published on the House's website. The Board's findings are to be laid down in a written report, and the Member concerned is allowed to respond to it. The final report is to be transmitted to the House's Presidium which is to publish it within four weeks. The Member concerned may lodge an appeal which is reviewed by a specially instituted Temporary Board.
19. The Board's conclusion on the breach of the Code may trigger three kinds of sanctions: an instruction, a reprimand and a suspension. Imposition of a sanction is decided upon by the House. The Board may also recommend possible improvements of the Code in its annual report (to be published for the first time in April 2022).
20. The authorities add that all of the aforementioned developments have been duly reflected in the House's revised Rules of Procedure (Article 15.24).
21. GRECO welcomes the establishment of a system to monitor compliance of members of the House of Representatives with the rules of conduct as embodied in the new Code of Conduct (cf. recommendation i). This system includes an independent inquiry board, an appeal board, is underpinned by graduated sanctions and allows for further improving the Code in light of practice in its implementation. GRECO is satisfied that the recommendation as a whole has now been implemented satisfactorily.
22. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

23. *GRECO recommended in respect of both Chambers of Parliament, (i) the establishment of a specific source of confidential counselling with the mandate to provide parliamentarians with guidance and advice on ethical questions and possible conflicts of interests in relation to specific situations; and (ii) the provision of specific and periodic training for all parliamentarians on ethical questions and conflict of interests.*
24. This recommendation was considered partly implemented in the Addendum to the Second Compliance Report. GRECO welcomed the provisions of the new Code of Conduct for the senators on confidential counselling. However, the appointment of a confidential counsellor for the Senate had not been completed, and the system of periodic training on integrity issues had not yet become operational. GRECO also

noted that a new model of confidential counselling was being introduced in the House of Representatives.

25. The authorities of the Netherlands now report that an external independent confidential counsellor for the Senate was appointed on 17 December 2019 for a four-year term.¹ In addition to counselling, her duties comprise the evaluation of the recently adopted Code of Conduct and participation in periodic thematic sessions on integrity matters in the Senate. Information on the functioning of a confidential counsellor is available on the Senate's website, together with other integrity-related data, e.g. the Code of Conduct, the gifts register and the foreign travel register. Periodic training sessions on integrity matters have started and now take place twice a year. The last such session was held on 15 June 2021² and the next will take place in autumn.
26. The authorities also report that an independent confidential counsellor for the House of Representatives was appointed by the Presidium on 1 January 2020 for a six-year term. In April 2021, his first annual report was published³. Amongst other things, it provides information on the number and nature of requests for advice received and offers guidance on the regulations regarding statutory remunerations and registration of private interests. It also contains recommendations as to improving awareness and accessibility of integrity rules and thus contributes to the further development, interpretation and application of the Code of Conduct. The training programme of the House of Representatives comprises multiple sessions covering topics relevant for the work of an MP. Integrity is one of such topics. Subsequent to elections, the training sessions are organised very frequently so as to enable all MPs and new staff to participate. In years without elections, the training programme is run several times per year. Additionally, the independent confidential counsellor has proposed to political parties to discuss integrity matters on a general level (as opposed to her giving advice to individual MPs) and many parties have already accepted this offer.
27. GRECO notes that the confidential counselling mechanisms have become fully operational within the two chambers of parliament. GRECO also notes that dedicated integrity training in the House of Representatives is now provided on a regular basis. However, with respect to the Senate, training sessions are organised twice per year only for leaders of political parties and the leadership of the Senate and the rest of the senators are not covered. For this reason, GRECO concludes that this recommendation remains partly implemented.
28. GRECO concludes that recommendation iv remains partly implemented.

Corruption prevention in respect of judges

Recommendation v.

29. *GRECO recommended that a restriction on the simultaneous holding of the office of judge and that of member of either Chamber of Parliament be laid down in law.*
30. This recommendation was considered not implemented in the Addendum to the Second Compliance Report. GRECO noted the outcome of the consultations in the judiciary which had led to a positive opinion of the Council for the Judiciary on the

¹ Since December 2019, she has conducted meetings with all parliamentary parties and received around ten requests for advice, mostly regarding acceptability of ancillary positions for senators.

² The authorities inform that the leaders of all 15 political parties represented in the Senate (or their deputies) attended this training, as did the President of the Senate (who chaired the meeting) and the first and second Vice-Presidents. The confidential counsellor took part as well. The leaders of all political parties are to report back to their fellow senators about what was discussed.

³ Informatie over Bijlage 978918 | Overheid.nl > Officiële bekendmakingen (officielebekendmakingen.nl).

need in principle for a prohibition on judges in office simultaneously being members of parliament. Legal amendments to this end appeared to be underway.

31. The authorities of the Netherlands now report that work is still ongoing on legislation to ban the simultaneous holding of the office of judge and member of either chamber of parliament. It is expected that the relevant bill will be available for public consultation in the second half of 2021.
32. GRECO urges the authorities to accelerate the law-making process necessary to comply with the recommendation. Given the early stage of the procedure, GRECO can only conclude that the recommendation remains not implemented.
33. GRECO concludes that recommendation v remains not implemented.

III. CONCLUSIONS

34. **The Netherlands have made additional progress in implementing the pending recommendations. Five of the seven recommendations contained in the Fourth Round Evaluation Report have now been implemented satisfactorily, one recommendation remains partly implemented and one recommendation remains not implemented.**
35. More specifically, recommendations i, ii, iii, vi and vii have been implemented satisfactorily, recommendation iv has been partly implemented and recommendation v remains not implemented.
36. Concerning members of parliament, GRECO welcomes the adoption of the new Code of Conduct for members of the House of Representatives which represents a solid set of integrity rules and provides guidance *inter alia* on conflicts of interest, gifts, various registration requirements, ancillary activities, contacts with lobbyists and the applicability of certain integrity rules to MPs' close family members. GRECO also welcomes the establishment of a system to monitor compliance of members of the House with the Code of Conduct. This system includes an independent inquiry board, an appeal board, is underpinned by graduated sanctions and allows for further improving the Code in light of practice. Last but not least, GRECO notes that confidential counselling mechanisms have become fully operational within the two Chambers of Parliament and that dedicated integrity training in the House of Representatives is now provided on a regular basis. However, a similar training programme in the Senate needs to be extended from the leadership of the Senate and the leadership of political parties to the rest of the senators. GRECO is pleased that the Netherlands has now complied with almost all recommendations concerning the members of both Chambers of Parliament.
37. With respect to prosecutors and judges, only one recommendation is pending. GRECO is concerned that work on legislation to ban the simultaneous holding of the office of judge and member of either chamber of parliament has not progressed further. This is a matter of principal importance and the authorities are urged to accelerate this procedure and to comply with the recommendation as soon as possible.
38. The adoption of this Second Addendum to the Second Compliance Report terminates the Fourth Round compliance procedure in respect of the Netherlands. The authorities may, however, wish to inform GRECO of further developments in the implementation of recommendations iv and v.
39. Finally, GRECO invites the authorities of the Netherlands to authorise, as soon as possible, the publication of this report, to translate it into the national language and to make the translation public.