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Groupe d'États contre la corruption

COUNCIL OF EUROPE



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## FOURTH EVALUATION ROUND

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

### ADDENDUM TO THE SECOND COMPLIANCE REPORT ITALY

Adopted by GRECO at its 91<sup>st</sup> Plenary Meeting  
(Strasbourg, 13-17 June 2022)

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## **I. INTRODUCTION**

1. This Addendum to the Second Compliance Report assesses the measures taken by the authorities of Italy to implement the recommendations issued in the Fourth Round Evaluation Report on Italy covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation report](#) on Italy was adopted at GRECO's 73<sup>rd</sup> Plenary Meeting (21 October 2016) and made public on 19 January 2017, following authorisation by Italy.
3. The [Compliance Report](#) was adopted by GRECO at its 81<sup>st</sup> Plenary Meeting (7 December 2018) and made public on 13 December 2018, following authorisation by Italy.
4. The [Second Compliance Report](#) was adopted by GRECO at its 87<sup>th</sup> Plenary Meeting (25 March 2021) and made public on 29 March 2021, following authorisation by Italy. Italy was requested to submit additional information regarding the implementation of the outstanding recommendations. The information was received on 26 April 2022 and served as a basis for this Addendum.
5. The current Addendum to the Second Compliance Report evaluates the progress made in implementing the pending recommendations since the Second Compliance Report (i.e. recommendations i, ii, iii, iv, v, vi and x) and provides an overall appraisal of the level of compliance with these recommendations.
6. GRECO selected Spain (with respect to parliamentary assemblies) and San Marino (with respect to judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Mercedes PÉREZ SANZ, on behalf of Spain and Mr Stefano PALMUCCI, on behalf of San Marino. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

## **II. ANALYSIS**

7. GRECO, in its Fourth Round Evaluation Report, addressed 12 recommendations to Italy. In the Second Compliance Report, GRECO concluded that recommendations viii, xi and xii had been implemented satisfactorily, recommendations vii and ix had been dealt with in a satisfactory manner, recommendations i, ii, iii, iv, v and x had been partly implemented and recommendation vi had not been implemented. Compliance with the pending recommendations is examined below.

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

#### **Recommendation i.**

8. *GRECO recommended strengthening the integrity framework for parliamentarians, including through (i) the formalisation of the Code of Conduct in the Rules of Procedures of the Chamber of Deputies; (ii) its further refinement through detailed guidance on its provisions; and (iii) the establishment of an effective enforcement and accountability regime. The same measures are recommended for the Senate.*
9. It is recalled that this recommendation was partly implemented in the Second Compliance Report. While GRECO acknowledged the constructive approach of the Advisory Committee on the Conduct of Deputies to advance the implementation of the Code of Conduct and to provide advisory guidance, it however noted that the issuing of targeted guidelines was pending. Moreover, GRECO considered that more needed to be done to provide for an effective enforcement and accountability regime

of the Code – a task which necessarily encompassed the formalisation of the Code of Conduct in the Rules of Procedures of the Chamber of Deputies. In addition, the Senate was yet to adopt its own Code.

10. The Italian authorities now report that, following discussions in the Advisory Committee on the Conduct of Deputies, on 4 June 2021 the Chair of the Committee proposed regulatory amendments in order to integrate the Code of Conduct in the Rules of Procedure of the Chamber of Deputies, setting out the fundamental principles which the Deputies' conduct must rely on, such as moral integrity, transparency, diligence, honesty, accountability, and a commitment to uphold a good reputation of the Chamber. The amendment also seeks to codify key provisions relating to transparency (obligation to declare financial interests, parallel employment, ownership of assets or receipt of funding), as well as those setting out a range of sanctions for violations of the Code. According to the proposed amendments, particularly serious violations will be considered and sanctioned by the Bureau of the Chamber of Deputies. The amendments are presently examined by the Committee on the Rules of Procedure.
11. Further, the authorities report that the Advisory Committee has also drafted a set of criteria for ensuring accuracy in the declarations on Deputies' external activities and positions they hold in other entities. These criteria are being examined by the Committee on Elections, with a view to ensuring harmonisation of the provisions of the Code of Conduct and those of Article 15 of the Regulation of the Committee on Elections.
12. In addition, the authorities submit that on 26 April 2022, the Presidential Council of the Senate adopted the Code of Conduct for Senators, which lays down the principles and rules of conduct in the exercise of Senators' parliamentary mandate. The Code of Conduct consists of a total of eight chapters, including provisions relating to general conduct obligations, transparency, conflict of interests, gifts, supervision and sanctions.
13. GRECO takes note of the information provided. It appears that some additional steps are underway in the Chamber of Deputies to further develop the integrity framework. However, this work has not produced any tangible results yet: the relevant amendments to the Code of Conduct are still under examination, and targeted guidance on its provisions does not appear to have been issued. A Code of Conduct for Senators has been adopted, but no guidance has been issued on its provisions for the time being. As to the effectiveness of the supervision and sanctions envisaged under the recently adopted Code of Conduct of the Senate, that can only be assessed after this instrument has been operational for some time.
14. In view of the above, GRECO concludes that recommendation i remains partly implemented.

**Recommendation ii.**

15. *GRECO recommended that (i) clear and enforceable conflict of interest rules be adopted for parliamentarians, including through a systematisation of the currently dispersed ineligibility and incompatibility regime; and (ii) the process of verification of ineligibility/incompatibility be further streamlined and thereby performed in an effective and timely manner.*
16. It is recalled that this recommendation was partly implemented in the Second Compliance Report. A draft Law amending Law No. 215/2004 on Conflicts of Interest, which was reportedly aimed at streamlining the applicable rules, tightening them and

enhancing their enforceability, was in the making, but had yet to be adopted, and effective implementation measures were to be put in place thereafter.

17. The Italian authorities now report that in late 2021, the Council for Elections and Parliamentary Immunities of the Senate considered the case of a possible incompatibility<sup>1</sup> in respect of a Senator who was the sole director of a consortium for hygiene services of a province. Prior to the conclusion of the proceedings by the Council, the Senator concerned resigned from a potentially incompatible position in favour of maintaining the seat in the Senate. In addition, the authorities inform that the Council is currently examining the case of another Senator, who is a member of Advisory Boards of two investment companies based abroad.
18. GRECO takes note of the information provided. It would appear that no new developments of relevance to the present recommendation have taken place. In particular, the draft amendments to Law No.215/2004, which, *inter alia*, were expected to address the present recommendation, have still not been adopted and it is unclear whether their adoption is envisaged at all, as the authorities no longer refer to them. While GRECO notes the recent proceedings regarding possible cases of incompatibilities of individual Senators, it regrets that no tangible measures have been taken to address either of the two parts of the present recommendation. In these circumstances, GRECO cannot maintain its previous conclusion that this recommendation has been implemented, even partly.
19. GRECO concludes that recommendation ii has not been implemented.

### **Recommendation iii.**

20. *GRECO recommended establishing a robust set of restrictions concerning donations, gifts, hospitality, favours and other benefits for parliamentarians, and ensuring that the future system is properly understood and enforceable.*
21. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. In particular, GRECO took note of draft rules on gifts, hospitality, favours, and other benefits for deputies, including in connection with their obligation to declare travel, accommodation and expenses covered by sponsors. However, such rules had yet to be adopted and enforceable, not only in respect of the deputies but also the senators.
22. The authorities of Italy now refer to the provisions of the Code of Conduct regarding restrictions on gifts allowed to be received by the Deputies<sup>2</sup>. In addition, the authorities submit that at the Bureau meeting of 16 March 2022, the Chair of the Advisory Committee on the Conduct of Deputies requested that a discussion of a draft text for the implementation of Article 4, paragraph 2 of the Code of Conduct be included on the agenda of the Bureau's next meeting on 15 June 2022. The Bureau approved the proposed text and decided to transmit it to the Presidential Council of the Chamber of Deputies for final adoption.
23. GRECO takes note of the information provided by the authorities, which largely reiterates the situation as described in the Evaluation Report (paragraph 52). The

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<sup>1</sup> Under Article 11 of Legislative Decree no. 39 of 2013 laying down "Provisions on the prohibition of assignment and incompatibility of positions within public administrations and State-controlled private entities".

<sup>2</sup> Article 4 of the Code of Conduct states that Deputies shall refrain from accepting gifts or benefits, other than those of a value of less than €250, received by them as representatives of the Chamber, in accordance with official courtesy protocol. The above rules do not apply to the reimbursement of Deputies' travel, accommodation and subsistence expenses, or to the direct defrayment of such expenses by third parties, if Deputies participate in events organised by third parties following an invitation, and in fulfilment of their official duties as Members of Parliament.

draft rules aiming to address the present recommendation appear to have been approved by the Bureau of the Chamber, but their final adoption is still pending.

24. GRECO concludes that recommendation iii remains partly implemented.

**Recommendation iv.**

25. *GRECO recommended that a (i) a study be carried out in order to identify post-employment restrictions for members of Parliament which might be required to avert conflicts of interests; and (ii) post-employment restrictions in such cases be introduced, as necessary.*
26. It is recalled that this recommendation was partly implemented in the Second Compliance Report. Having welcomed the introduction of restrictions regarding post-employment lobbying activities, GRECO also took note of legislative developments regarding post-employment restrictions, particularly on cooling-off periods and the corresponding supervisory arrangements. However, the adoption of the reported draft rules was still pending.
27. The authorities of Italy refer, once again, to the provisions of Article 3 of the Rules on Lobbying<sup>3</sup> in the Chamber of Deputies (which was in force at the time of the Evaluation Report), stipulating that representatives of interests wishing to enrol in the Chamber's Register of Lobbyists "*must not have held government office or a parliamentary mandate in the past twelve months*". Further, the authorities indicate that on 12 January 2022, a consolidated draft Law No. C.196-721-1827<sup>4</sup> was approved by the Chamber in the first reading and is currently under examination of the Senate (with the deadline for presenting the amendments set at 31 May 2022). According to the authorities, this draft legislation combines the previously existing provisions and introduces a national legislative framework regulating lobbying. Article 4 of the draft states that public decision-makers, including members of parliament, may not register as lobbyists and carry out lobbying activities during their mandate, as well as during one year following its termination.
28. GRECO takes note of the information submitted by the authorities. It would appear that the draft amendments on further restrictions of lobbying activities for former members of parliament have advanced following a first reading on 12 January 2022, but are still not finally dealt with. No progress has been made regarding the adoption of the draft Law on Conflicts of Interest, which has been in preparation for some time now. GRECO finds it pertinent to recall that the present recommendation is broader than restrictions on lobbying, and also covers other situations which could lead to conflicts of interest in the performance of the parliamentary function. Overall, no considerable progress has been made regarding the implementation of this recommendation.
29. GRECO concludes that recommendation iv remains partly implemented.

**Recommendation v.**

30. *GRECO recommended further developing the applicable rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the parliamentary process, including by developing detailed guidance on the matter and securing its effective monitoring and enforcement. The same measures are recommended for the Senate.*

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<sup>3</sup> Approved on 26 April 2016 by the Committee on the Rules of Procedure.

<sup>4</sup> Accessible via the following link (in Italian): <https://www.senato.it/service/PDF/PDFServer/BGT/01330860.pdf>

31. In the Second Compliance Report, GRECO assessed this recommendation as partly implemented. GRECO insisted on the need to develop targeted guidance which would give deputies clear directions on how to engage with lobbyists and the expected conduct of behaviour. Furthermore, GRECO also urged the Senate to regulate this matter.
32. The authorities of Italy now report that as of 4 April 2022, the Register of Lobbyists of the Chamber of Deputies contains names of 275 legal persons and 52 natural persons officially engaged in lobbying activities. In the period from 2019 to 2022, the names of seven legal and four natural persons were struck out from the Register either for failing to comply with the annual activity reporting obligations, or for submitting reports that failed verification assessment.
33. Further, the authorities refer to a consolidated text of Bills C.196-721-1827, containing a draft law to regulate lobbying (see paragraph 27 above)<sup>5</sup>. The authorities indicate that the draft law aims at ensuring transparent public decision-making and traceability of those seeking to influence it; facilitating the allocation of accountability for decisions taken; encouraging systematic participation of citizens in the decision-making process; and providing decision-makers with a broad base of information for making better-informed choices through a more transparent process. The draft law also envisages the setting up of a Register of Lobbyists by the Italian Competition Authority, intended to encompass information regarding all natural and legal persons engaged in lobbying activities, and replace all other similar registers currently in operation. This Register will consist of two parts, one of which will only be accessible to registered lobbyists and public bodies conducting public consultations on the proposals of legislative or regulatory acts. The other part, which will be accessible to the general public, will contain orders of business of meetings between lobbyists and public decision-makers, indicating their names, the venues of meetings, and accounts of deliberations and matters discussed at each meeting.
34. In addition, the draft law also envisages setting up an Oversight Board<sup>6</sup> to monitor the transparency of public decision-making processes. The Oversight Board shall also be responsible for adopting a Code of Ethics, laying down rules of conduct for lobbyists<sup>7</sup> whose activities entail institutional relations. The draft law also intends to introduce mandatory annual reporting<sup>8</sup> on lobbying activities to be submitted to the Oversight Board by the 31 of January (covering activities for the preceding year). It is also envisaged that such reports would be made public within 15 days of submission. By 30 June of each year, the Oversight Board is to prepare its own annual report on the lobbying activity. What is more, according to the draft, public decision-makers intending to propose or adopt a legislative or regulatory act of a general nature may initiate a public consultation procedure by giving notice of their legislative intentions in the publicly accessible part of the Register and by publishing an outline of the legislative act, or by explaining its purpose in the restricted access part of the Register.
35. The draft law also contains measures destined to ensure enforcement of different transparency obligations, and sets out specific sanctions reflecting the gravity of the violations. The envisaged sanctions include a caution, a reprimand, a temporary removal from the Register (for up to one year), or a permanent removal. False declarations, the omission of information, or failure to provide additional information

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<sup>5</sup> The first round of hearings on this draft law took place on 6 April 2022 at the Constitutional Affairs Committee.

<sup>6</sup> The Oversight Board is to be set up under the Italian Competition Authority, and its members will be selected from the Court of Cassation, the Court of Auditors, and the National Council for the Economy and Labour (CNEL). This Board shall be assigned supervisory and control functions, as well as the power to decide sanctions.

<sup>7</sup> For instance, the draft law prohibits persons listed in the Register from making any payments or providing any other economically significant benefit to public decision-makers.

<sup>8</sup> Such reports should include a list of the lobbying activities, the names of public decision-makers engaged by the lobbyist, and an estimates volume of human and economic resources involved in the relevant lobbying work.

at the request of the Oversight Board may lead to a fine of between €5,000 and €15,000 to be determined by the Oversight Board.

36. Finally, the authorities confirm that the two houses of parliament will be aligning their respective rules with the measures contained in the draft law, once the latter is adopted. In their respect, the oversight functions are to be carried out by a Bicameral Committee composed five Deputies of the Chamber and five Senators, appointed by the Presidents of the two houses within 30 days from the start of a new parliament.
37. GRECO takes note with interest of the on-going legislative initiatives on introducing further regulations in respect of lobbyists, including a unified register accessible to public, an oversight body and enforcement mechanisms. However, these initiatives have not yet been completed. Moreover, the focus of the Fourth Evaluation Round is on the standards applicable to parliamentarians' relations with the lobbyists, and not on the lobbyists themselves. For this reason, the steps currently in the pipeline, while potentially beneficial for regulating the activity of lobbyists, are of limited relevance to the present recommendation. Overall, no tangible progress has been made since the previous compliance report, as rules on parliamentarians' engagement with lobbyists, as well as detailed guidance on the matter, continue to be lacking in both houses of parliament. In these circumstances, GRECO cannot maintain its previous conclusion that the present recommendation has been partly implemented.
38. GRECO concludes that recommendation v has not been implemented.

#### **Recommendation vi.**

39. *GRECO recommended that practical measures be put in place to support the implementation of clear parliamentary integrity rules including through the development of dedicated training activities.*
40. In the Second Compliance Report, GRECO assessed this recommendation as not implemented and regretted the lack of any tangible result in this domain by neither the Chamber of Deputies nor the Senate.
41. The authorities of Italy do not report any new developments regarding this recommendation.
42. GRECO regrets the lack of progress in regard to the implementation of recommendation vi and concludes it remains not implemented.

#### *Corruption prevention in respect of judges and prosecutors<sup>9</sup>*

#### **Recommendation x.**

43. *GRECO recommended (i) that a restriction on the simultaneous holding of the office of magistrate and that of a member of local government be laid down in law; and more generally, (ii) that the issue of political activity of magistrates be dealt with in all its aspects at legislative level, given its impact on the fundamental principles of independence and impartiality, both real and perceived, of the judiciary.*
44. It is recalled that this recommendation was partly implemented in the Second Compliance Report. GRECO took note of draft legislation drawing a stricter line between judicial and political functions, both regarding the move of magistrates to fulfil a political/executive mandate, as well as their return to the bench. However, the effective enactment of the proposed legislation was yet to take place.

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<sup>9</sup> It is recalled that in Italy prosecutors and judges belong to the same professional order of "magistrates".

45. The authorities of Italy now report that the draft law on the Reform of the Justice System (AC 2681) was amended following to the proposals formulated by the Minister of Justice and unanimously approved by the Council of Ministers on 11 February 2022. Subsequent to the approval by the Council, the Parliamentary groups proposed several sub-amendments, which have been examined by the Justice Commission of the Chamber of Deputies.
46. The authorities furthermore indicate that following the evolution of the draft law, the system of incompatibilities and restrictions it envisages introducing in relation to the performance of political and governmental functions by judges and magistrates has become even more stringent. In particular, it provides that magistrates<sup>10</sup> shall not be eligible for membership of the European Parliament, Senate or Chamber of the national parliament, or for the office of President of the regional council, of regional councillor, of president of the autonomous provinces of Trento and Bolzano or of provincial councillor in those autonomous provinces, if they are serving or have served during three preceding years in court district or judicial offices, having competence, in whole or in part, in the region of his/her constituency. Further, they will also not be eligible for the office of mayor, municipal councillor, or municipal assessor (*assessore comunale*), with similar time and territorial limitations. The draft stipulates that magistrates, in general, may not hold elective offices unless they are on unpaid leave at the time they accept the candidature, or at the time they take the office. The draft requires that magistrates must be on leave of absence (*aspettativa*) for the entire duration of their government office.
47. The authorities further report that the draft law will set limitations and incompatibilities in relation to magistrates' resuming their activity following the end of their term of elected or appointed office, as well as to those who stood for election. In particular, for the three years after the end of the term of office/running in elections they may not be assigned<sup>11</sup> to an office wholly or partly in the region, of their constituency, to an office located in the region where they held governmental position. As for the magistrates in higher courts or judicial offices with nation-wide competence, they may only be assigned non-judicial activities (i.e. neither as judges nor as prosecutors) by their respective self-governing bodies. Furthermore, restrictions are being introduced by the draft in respect of reassigning of magistrates who held an elected office, or a government office, in order to limit, as far as possible, situations of potential conflicts of interest<sup>12</sup>.
48. GRECO takes note of the developments reported by the authorities. The draft legislation regarding restrictions of political activity of magistrates, including simultaneous holding of the office of magistrate and that of elected or appointed government office, appears to be evolving in the right direction. That said, the draft legislation has been in preparation for some time now, and, in spite of further

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<sup>10</sup> Including administrative, accounting and military magistrates.

<sup>11</sup> Including the ban on performing functions of judge for preliminary investigations, for preliminary hearings, or of a public prosecutor, and on taking up managerial and semi-managerial positions.

<sup>12</sup> Thus, at the end of their respective mandates in elected office, magistrates who served as members of national or the European Parliament, regional, provincial councillors in the Trento and Bolzano, presidents of regional councils or councils of Trento and Bolzano, mayors or municipal councillors, at the end of the mandate, are to be assigned either to the ministry they belong to; the Presidency of the Council of Ministers; or by their respective self-governing bodies to carry out non-judicial activities. Assignment may also take place at the State Attorney (*Avvocatura dello Stato*). As regards magistrates who held appointed government offices of the Head and Deputy Head of the Cabinet Office, Secretary General of the Council of Ministers and of Ministries, Head and Deputy Head of Department at the Presidency of the Council of Ministers, Ministries, and at Regional Councils and Boards, they must, for one year from the date of termination of office, remain outplaced, in a non-executive post, at the Ministry they belong to, or at State Attorney, or at other administrations. Alternatively, they may be assigned non-judicial activities by respective self-governing bodies. They may not hold managerial or semi-managerial posts for an additional period of three years. Similar restrictions are proposed in respect of ordinary, administrative, accounting and military magistrates.

progress, has not been adopted yet<sup>13</sup>. Therefore, GRECO still cannot consider this recommendation as implemented more than partly.

49. GRECO concludes that recommendation x remains partly implemented.

### **III. CONCLUSIONS**

50. **In view of the foregoing, GRECO concludes that Italy has still only implemented satisfactorily or dealt with in a satisfactory manner five of the twelve recommendations contained in the Fourth Round Evaluation Report.** Of the remaining seven recommendations, four have been partly implemented and three have not been implemented.

51. More specifically, recommendations viii, xi and xii have been implemented satisfactorily, recommendations vii and ix have been dealt with in a satisfactory manner, recommendations i, iii, iv, and x have been partly implemented and recommendations ii, v and vi have not been implemented.

52. As regards members of parliament, GRECO regrets the persistent absence of concrete results in relation to putting in place relevant codes of conducts in the two houses of parliament and approving the regulatory framework for parliamentarians' relations with lobbyists and other third parties seeking to influence the public decision-making process. The Code of Conduct of the Chamber of Deputies has now been in preparation for several years, without having been adopted, and the Code of Conduct for Senators has been adopted on 26 April 2022, but guidance on its provisions is yet to be established, and the effectiveness of its supervisory regime is yet to be demonstrated. No significant progress has been made as regards the rules on gifts, hospitality and other benefits for deputies in either houses of parliament. Discussions continue in relation to draft legislation on restrictions in respect of post-employment activities of members of parliament, but its content appears to be limited to engaging in lobbying after a parliamentary mandate. Further, examination of a comprehensive draft law regarding establishing a national register of lobbyists with a dedicated oversight board is also underway in Parliament, but its focus is on regulating lobbying as such, and not on the standards applicable to parliamentarians' relations with the lobbyists. Overall, GRECO urges the authorities to take more determined action to enhance the slow pace of the implementation of the remaining recommendations regarding members of parliament.

53. As to the judiciary, most recommendations in this area have already been dealt with in a satisfactory manner, including strengthening the financial disclosure regime, preventing and detecting corruption risks and conflicts of interests within the fiscal jurisdiction and enhancing training on integrity matters. That said, the topical issue of incompatibilities and restrictions on the performance of political and governmental functions by judges and magistrates remains unresolved. Examination of draft legislation to establish a detailed system of such restrictions is underway, and its content, as presented by the authorities, appears to be going in the right direction. However, the efforts to regulate this matter have spanned over several years now, with no tangible results. GRECO encourages the authorities to adopt the necessary legislation without any further delay, and to ensure its rigorous implementation in practice.

54. Italy is called upon to pursue its efforts to enhance compliance with GRECO's outstanding recommendations. Seven out of twelve recommendations remain to be implemented. Therefore, in accordance with Rule 31 rev, paragraph 9 of its Rules of

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<sup>13</sup> The Italian authorities informed GRECO in the course of its 91st Plenary meeting that the legislation containing restrictions on political and other non-judicial activity of magistrates has been adopted on 16 June 2022.

Procedure, GRECO asks the Head of the Italian delegation to provide a report on the progress made in implementing the recommendations by 30 June 2023.

55. Finally, GRECO invites the authorities of Italy to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.