



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 25 March 2022

Publication: 28 October 2022

Public

2022GrecoRC4(2022)1

FOURTH EVALUATION ROUND

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

SECOND ADDENDUM TO THE SECOND COMPLIANCE REPORT CROATIA

Adopted by GRECO at its 90th Plenary Meeting
(Strasbourg, 21-25 March 2022)

I. INTRODUCTION

1. The Second Addendum to the Second Compliance Report assesses the measures taken by the authorities of Croatia to implement the recommendations issued in the Fourth Round Evaluation Report on Croatia (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report](#) on Croatia was adopted at GRECO's 64th Plenary Meeting (20 June 2014) and made public on 25 June 2014, following authorisation by Croatia. The [Compliance Report](#) was adopted by GRECO at its 73rd Plenary Meeting (21 October 2016) and made public on 9 November 2016, following authorisation by Croatia. The [Second Compliance Report](#) was adopted by GRECO at its 81st Plenary Meeting (on 7 December 2018) and made public on 29 January 2019, following authorisation by Croatia. The [Addendum to the Second Compliance Report](#) was adopted by GRECO at its 85th Plenary Meeting (on 25 September 2020) and made public on 21 October 2020, following authorisation by Croatia.
3. As required by GRECO's Rules of Procedure, the authorities of Croatia submitted a Situation Report with additional information regarding actions taken to implement the six pending recommendations that, at the stage of the Addendum to the Second Compliance Report, had been partly or not implemented. The Situation Report was received on 30 September 2021 and served as a basis for this Second Addendum to the Second Compliance Report.
4. GRECO selected San Marino (with respect to parliamentary assemblies) and Latvia (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were M. Stefano PALMUCCI, on behalf of San Marino and Ms Anna ALOSINA, on behalf of Latvia. They were assisted by GRECO's Secretariat in drawing up this [Second Addendum to the Second Compliance Report](#).

II. ANALYSIS

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

Corruption prevention in respect of members of parliament

Recommendations i and iii.

6. *GRECO recommended:*

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

that efficient internal mechanisms be developed to promote, raise awareness and thereby safeguard integrity in Parliament, including on an individual basis (confidential counselling) and on an institutional level (training, institutional

discussions on ethical issues related to parliamentary conduct, etc.) (Recommendation iii).

7. GRECO recalls that these recommendations were considered not implemented in the Addendum to the Second Compliance Report: there were no tangible outcomes regarding the adoption of a code of conduct for parliamentarians and the establishment of a corresponding advisory, supervisory and enforcement arrangements.
8. The authorities of Croatia report that the drafting process is still ongoing and once the draft is ready, it will be sent to the plenary of Parliament for adoption. The authorities further refer to the recent adoption of the new Law on Conflicts of Interest, which entered into force on 25 December 2021. The law comprises MPs under its *personae* scope. It includes upgraded provisions on, *inter alia*, ad-hoc declarations, recusal, gifts, incompatibilities, and sanctions (the minimum fine has been increased from 2 000 HRK to 4 000 HRK – from 265 to 530 EUR, and the maximum fine stays at 40 000 HRK – 5 300 EUR). The Commission for the Resolution of Conflicts of Interest is to provide advice and guidance on the relevant legislative obligations regarding the prevention of conflicts of interests. In 2020, it gave 138 reasoned opinions and statements to this effect (out of which 23 were posed by MPs). Finally, the authorities refer to a plan to set-up an information platform to improve coordination and cooperation of bodies involved in the implementation of anti-corruption activities, and to make the public better aware of such activities, including through the development of an interactive guide for certain laws, such as the Law on Conflicts of Interest and the Law on Whistleblower Protection (Croatian Recovery and Resilience Plan, component 2.6).
9. GRECO notes that Croatia is one of the very few GRECO members where Parliament still does not have a code of conduct (recommendation i). This situation is highly unsatisfactory. Regarding awareness, training and confidential counselling (recommendation iii), MPs would be able, as all other persons under the scope of the Law on Conflicts of Interest, to turn to the Commission for the Resolution of Conflicts of Interest for advice. The Commission is also responsible for developing guidance on the conflicts of interest prevention. This was also the case under the former law, which was in force at the time of the evaluation visit. However, GRECO called for the development of specific internal mechanisms to promote and raise awareness on integrity in-house.
10. GRECO concludes that recommendations i and iii remain not implemented.

Corruption prevention in respect of judges and prosecutors

Recommendation iv.

11. *GRECO recommended that the Croatian authorities review the procedures of selection, appointment and mandate renewal of the President of the Supreme Court in order to increase their transparency and minimise risks of improper political influence.*
12. GRECO considered this recommendation partly implemented in the Addendum to the Second Compliance Report. In 2018, amendments had been made to the Courts Act, which infused greater transparency into the selection process of the President of the Supreme Court and also limited his/her mandate (to a maximum of two terms). However, GRECO considered that additional measures were still required to preserve the objectivity and transparency of the actual appointment system, and to further

prevent improper political considerations or the perception of unfairness or bias being factored into the appointment of the President of the Supreme Court.

13. The authorities of Croatia reiterate their view that the appointment system of the President of the Supreme Court is vested with sufficient guarantees of transparency and objectivity. The State Judicial Council plays an important role in this respect. It announces the public call, gathers and makes available on its website the submitted CVs and the work programmes of the candidates, and submits the list of candidates – in no order or ranking – to the President. The President is then to ask for the non-binding advice prior opinion of the General session of the Supreme Court and the Judiciary Committee of the Parliament (the latter two take their decisions by the majority of their respective members; the advice of the Judiciary Committee of Parliament is publicly announced). At the proposal of the President of Croatia, the President of the Supreme Court is then to be elected by Parliament. Parliament can reject the President's choice. The authorities underscore that the system, which is designed by the Constitution and further articulated by the Courts Act (2018), allows for a system of checks and balances among the three branches of power.
14. The authorities also add that, pursuant to a decision of the Constitutional Court declaring the unconstitutionality of certain provisions of the Courts Act, a new Courts Act was adopted on 11 February 2022 and entered into force on 1 March 2022¹. In the light of the Constitutional Court remarks and the recent blockage in the election of the President of the Supreme Court, the Law includes provisions aimed to address some *lacunae* of the previous law, including by establishing deadlines and by vesting the State Judicial Council with a review role of the submitted candidatures (up to now, the State Judicial Council received the candidatures and simply submitted them to the President of the Republic, as it had no powers to review the documentation furnished by the relevant candidates). The new Courts Act underlines that the (non-binding) opinion of the competent bodies must be requested regarding all the candidates who applied to the call announced by the State Judicial Council and for whom the Council determined that they fulfil the prescribed conditions. Furthermore, the Act prescribes that the State Judicial Council shall annul the public call if the President of Croatia does not propose any of the candidates for the Supreme Court President within 15 days of receiving the last opinion of the competent bodies, or if the proposed candidate for is not elected. In such cases, the Council shall, within eight days at the latest, restart the procedure for the election of the President of the Supreme Court by announcing a new public call.
15. GRECO notes that recent developments in the country in respect to the appointment of the President of the Supreme Court have evidenced from a practical, and not only legislative angle, the shortcomings of the system. The choice of candidate of the President in separate selection processes was not confirmed by Parliament, resulting in the blockage of the appointment process. This situation confirms the analysis made by GRECO at the time of the Fourth Round Evaluation Report, i.e. that the executive and the legislative branches have the real say in the selection and appointment of the President of the Supreme Court.
16. GRECO notes that the new Courts Act includes provisions to prevent blockage from happening in the future. However, it does not appear that the current draft would address in full the concerns raised by GRECO in the Fourth Evaluation Round concerning the selection of the President of the Supreme Court. GRECO takes the view that vesting the State Judicial Council with a more decisive role in the selection

¹ As agreed with the European Commission, the Ministry of Justice and Public Administration referred the Courts Act to the Venice Commission for an opinion regarding the provisions on security checks for judicial officials. The [Opinion on the introduction of the procedure of renewal of security vetting through amendments to the Courts Act \(CDL-AD\(2022\)005-e\)](#) was adopted at the 130th plenary session of the Venice Commission on 18-19 March 2022.

procedure would have the benefit of limiting the political influence over the process; something that has not yet been fully exploited. The new Act establishes a review role for the State Judicial Council, but it is circumscribed to announce the public call, and assuring the timeliness and completeness of the documentation submitted by candidates. As things stand today, the State Judicial Council does not play a determining role in the selection process; it does not even rank the candidates selected. Moreover, there is no single requirement on the establishment of a predetermined appointment methodology/procedure, nor on having decisions reasoned.

17. GRECO concludes that recommendation iv remains partly implemented.

Recommendations vii. and xi.

18. *GRECO recommended that the authorities continue in their endeavours to strengthen the scrutiny of judges' (Recommendation vii) and prosecutors' financial declarations (Recommendation xi).*
19. GRECO deemed these recommendations as partly implemented in the Addendum to the Second Compliance Report since the effective operability of the IT system allowing for automated cross checks of financial declarations of judges and prosecutors was still pending.
20. The authorities of Croatia report on further progress to ensure interconnection of databases from different authorities which would allow for effective information cross-checks. Bilateral agreements and operational arrangements have now been concluded to this effect and both the State Judicial Council and the State Attorney's Council have access to and can exchange data with several key registers (e.g., vehicles, land and cadastre, trade, deposits, etc.). A reinforcement of equipment (computers) and personnel has also been secured for cross-checking purposes.
21. GRECO welcomes the progress reported to strengthen the scrutiny of judges' and prosecutors' financial declarations as recommended.
22. GRECO concludes that recommendations vii and xi have been implemented satisfactorily.

Recommendation viii.

23. *GRECO recommended that a communication policy, including general standards and rules of conduct as to how to communicate with the press, is developed for the judicial system (judges and prosecutors) with the aim of enhancing transparency and accountability.*
24. GRECO assessed this recommendation as partly implemented in the Addendum to the Second Compliance Report. GRECO acknowledged the various measures taken to upgrade the communication of the judiciary with the public, including by providing for intense training of judges and prosecutors on how to communicate with the press, improving court websites and the information provided by them, creating a common portal on judicial work, etc. It however noted that a communication policy was in the making and awaited its adoption.
25. The authorities of Croatia now report that training on communication skills has continued: in 2020, 12 workshops and online seminars were held with a total of 147 participants; in 2021, there were nine workshops and online seminars which were attended by 105 participants. Funds are being secured for outreach activities, including through resources of the Judicial Academy, as well as through an application

for EU financing. Moreover, various initiatives have been taken to enhance transparency and accessibility of judicial work: centralisation and streamlining of court websites following the establishment of a [single portal](#), guidelines for online publication, promotion of e-services within the judiciary (e.g. access to case law, commercial court register, companies register, real property and cadastre registries, criminal records certificates, etc.).

26. Furthermore, under the National Recovery and Resilience Plan, there are other activities on the way to increase judicial efficiency and transparency (e.g. anonymisation tool enabling publication of court decisions). A US funded project, i.e. the Croatian Courts of Excellence Programme (CCEP), includes, as one of its components, the provision of advice on the development of public relation tools (educating and mentoring the leadership of the courts in media relations, using social networks/media and other tools aimed at strengthening transparency and communication with the public) and a public relations strategy for the judiciary; completion of this project is expected sometime in 2022/2023. Finally, the National Plan for the Development of the Judicial System 2021-2027 is currently being drafted. It foresees several measures to improve the communication of the judiciary with the public, including by strengthening capacities of spokespersons as communication advisors at courts and in State attorney's offices to proactively explain the actions and decisions of the courts, particularly on cases of public interest, as well as by ameliorating the transparency of courts' decisions and their subsequent analysis.
27. GRECO takes note of the information reported and the effort made to improve transparency and accessibility of judicial work, as well as to train judges and prosecutors on how to communicate with, and reach out to, the press and, more generally, to the public at large. These are all noteworthy developments for which the authorities should be commended. That said, with particular reference to recommendation viii, which called for the development of a communication policy, the authorities have referred along the compliance process to several plans and initiatives in the pipeline, none of which has crystallised to date. Hence, a communication policy of the judiciary is still lacking.
28. GRECO concludes that recommendation viii remains partly implemented.

III. CONCLUSIONS

29. **In view of the foregoing, GRECO concludes that Croatia has implemented satisfactorily seven of the eleven recommendations contained in the Fourth Round Evaluation Report. Out of the remaining recommendations, two have been partly implemented and two remain not implemented.**
30. More specifically, recommendations ii, v, vi, vii, x and xi have been implemented satisfactorily; recommendation ix has been dealt with in a satisfactory manner; recommendations iv and viii have been partly implemented; and recommendations i and iii have not been implemented.
31. With respect to members of parliament, GRECO is critically concerned that Parliament has not managed to adopt a code of conduct, nor to develop an internal mechanism to promote and raise awareness on integrity matters in-house. Croatia remains one of the few GRECO member states not having in place a code of ethics for its parliamentarians. This is highly regrettable. The only recommendation which has been fully implemented in this area, since the adoption of the Fourth Round Evaluation Report in 2014, relates to the pivotal, pro-active role that the Commission for the Prevention of Conflicts of Interest has played, and continues to play, supporting public agents' integrity, including parliamentarians.

32. Regarding judges and prosecutors, a legislative package was adopted in July 2018 to, *inter alia*, enhance the transparency in respect of the systems of selection of the President of the Supreme Court and the Prosecutor General, and targeted measures have been developed to provide further guidance and counselling on ethics for both judges and prosecutors. However, additional measures are necessary to depoliticise and instil greater transparency and objectivity into the process of selection and appointment of the President of the Supreme Court. Recent controversies in this area have exposed from a practical, and not only legislative angle, the shortcomings of the system. The new Courts Act does not fully address the concerns raised by GRECO in this respect. GRECO further points at the recent Venice Commission Opinion on security vetting of judges (CDL-AD(2022)005-e) and the important recommendations made therein. Positive action has followed to strengthen financial declarations of judges and prosecutors, including by securing the necessary technical and administrative resources for information cross-checks. Quite a number of measures have been taken in recent years to improve the transparency and accessibility of judicial work, and various additional activities are in the pipeline; these are all positive developments which constitute good practice. However, a communication policy of the judiciary, as recommended, is still lacking.
33. The adoption of this Second Addendum to the Second Compliance Report terminates the Fourth Round compliance procedure in respect of Croatia. The authorities of Croatia may, however, wish to inform GRECO of further developments with regard to the implementation of the outstanding recommendations.
34. Finally, GRECO invites the authorities of Croatia to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.