



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 24 March 2023  
Publication: 30 March 2023

Public  
GrecoRC4(2023)5

## FOURTH EVALUATION ROUND

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

## SECOND COMPLIANCE REPORT

## MONACO

Adopted by GRECO at its 93rd Plenary Meeting  
(Strasbourg, 20-24 March 2023)

## I. INTRODUCTION

1. This Second Compliance Report assesses the measures taken by the authorities of Monaco to implement the recommendations issued in the Fourth Round Evaluation Report on Monaco (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Monaco was adopted at GRECO's 76th Plenary Meeting (on 23 June 2017) and made public on 13 July 2017, following authorisation by Monaco ([GrecoEval4Rep\(2017\)1](#)). The Compliance Report adopted by GRECO at its 84th plenary meeting (6 December 2019) and made public on 17 February 2020 with Monaco's authorisation ([GRECORC4\(2019\)20](#)) concluded that the low level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31, revised, paragraph 8.3, of its Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2.i, in respect of members not in compliance with the recommendations contained in the mutual evaluation report.
3. An Interim Compliance Report was adopted by GRECO at its 88th plenary meeting (22 September 2021) and made public on 8 October 2021 following authorisation by Monaco ([GrecoRC4\(2021\)16](#)). GRECO concluded that the level of compliance with the recommendations was no longer "globally unsatisfactory". Application of Rule 32 was discontinued, and Monaco was requested to submit additional information regarding the implementation of the outstanding recommendations. This report, which was received on 30 September 2022, served as a basis for this Second Compliance Report.
4. GRECO had selected Andorra and Belgium to appoint rapporteurs for the compliance procedure. Ms Eva Garcia Lluelles was appointed on behalf of Andorra, and Mr Carl Piron on behalf of Belgium. The GRECO Secretariat helped them to draw up this Second Compliance Report.

## II. ANALYSIS

5. GRECO addressed 16 recommendations to Monaco in its Evaluation Report. In its Interim Compliance Report, it concluded that recommendations i, iii, v, vi and x to xvi had been implemented satisfactorily or dealt with in a satisfactory manner and that recommendations ii, iv and vii to ix had been partly implemented. The paragraphs below therefore assess compliance with the outstanding recommendations.

*Corruption prevention in respect of members of parliament*

### **Recommendation ii**

6. *GRECO recommended (i) that a code of conduct be adopted for the attention of members of the National Council to set standards in respect of general conduct, gifts and other benefits, and relations with third parties, and that it be brought to the attention of the public; ii) that measures be taken to facilitate its implementation in practice (explanatory comments, concrete examples etc.)*
7. It is recalled that in the Interim Compliance Report this recommendation was partly implemented. GRECO welcomed the new Rules of Procedure of the National Council, which contained appropriate measures, which were published and on which training was given, in accordance with the first part of the recommendation. With regard to the second part of the recommendation, it expected the National Council's Ethics Adviser to publish explanatory notices to facilitate its application.

8. The authorities of Monaco now state that the Ethics Adviser has published an Ethics Charter for the practical application of the Rules of Procedure, including administrative forms for the declaration of donations or benefits and the declaration of interests and activities. The Charter has been distributed to all the National Councillors and was presented to them in detail by the Ethics Adviser at a training session on 29 July 2022, which gave them an opportunity to discuss hypothetical and practical examples with him. The meeting was also an opportunity for the Ethics Adviser to present the National Councillors with his first annual report. The authorities also point out that the National Council was represented as an observer at the General Assembly, in November 2021, of the French-Speaking Network for Parliamentary Ethics, which it might be joining. The Ethics Adviser has also been consulted by National Councillors including through two official referrals, in response to which he drafted formal opinions. The Rules of Procedure and the Charter will be presented to the new members of the Council elected in February 2023 and will be covered in a new training session.
9. GRECO welcomes the fact that an Ethics Charter for the National Councillors has been drafted with a view to facilitating the proper implementation of the measures on members' integrity contained in the National Council's Rules of Procedure, and takes note of the measures taken by the Ethics Adviser to ensure that this is communicated to parliamentarians and they are given training on it. It notes that the Ethics Adviser is consulted by parliamentarians on the basis of these instruments, a process which helps to raise awareness and bolster the measures designed to ensure the integrity of elected representatives. This is consistent with the aims of the recommendation.
10. GRECO concludes that recommendation ii has been implemented satisfactorily.

#### **Recommendation iv**

11. *GRECO recommended (i) introducing a system of public declaration of the National Councillors' financial and economic interests (income, assets and significant liabilities) and (ii) envisaging including information on their spouses and dependent family members (it being understood that such information would not necessarily be made public).*
12. It is recalled that in the Interim Compliance Report this recommendation was partly implemented. GRECO highlighted the measures now contained in the Rules of Procedure of the National Council setting out the obligation for parliamentarians to declare their interests and activities and their spouses' occupational and professional activities. It called, however, for these declarations to be made public so as to increase transparency in public life and raise the level of trust that citizens have in their institutions.
13. The authorities of Monaco now reiterate their view that a public declaration of the assets of parliamentarians would not be geared to the realities of a state with such a small number of inhabitants and would constitute a disproportionate infringement of the privacy of parliamentarians, discouraging citizens from running for elected office. They consider that introducing a requirement for parliamentarians to declare their interests and activities is enough to achieve the goals of transparency and public trust advocated by the recommendation.
14. GRECO notes that no new steps have been taken to ensure that parliamentarians' declarations of financial and economic interests are made public. It points out that transparency of public life and trust by citizens in their institutions can only be strengthened by such public declarations. Until such measures are taken, it cannot consider the recommendation to have been fully implemented.

15. GRECO concludes that recommendation iv remains partly implemented.

*Corruption prevention in respect of judges and prosecutors*

**Recommendation vii**

16. *GRECO recommended that the authorities enhance the role and operational independence of the Judicial Service Commission, review its composition and give it a central role in guaranteeing the independence and good functioning of the justice system, as well as in the recruitment, career management and disciplinary proceedings in respect of judges and prosecutors.*
17. It is recalled that in the Interim Compliance Report this recommendation was partly implemented. GRECO noted that the amendments to the Law on judicial service regulations strengthened the ability of the High Judicial Council (HJC) to safeguard judicial independence and that it could now initiate disciplinary proceedings. It regretted however that the composition of the HJC had not been adjusted to increase the number of members elected by their peers, that its activity report was not made public and that it had not been given a greater role in the appointment of judges and prosecutors and their career management.
18. The authorities of Monaco now reiterate that the HJC must be consulted before any decisions are taken on the careers of members of the judiciary, namely with regard to their recruitment, promotion, position, training or honorary status, although such consultation is not prescribed by the law. They point out, however, that under Law No. 1.364 of 16 November 2009, as amended, the HJC is central to the functioning of judicial service regulations. They also state that the HJC's activity report on 2020 and 2021 was produced in April 2022 (and the first since 2016) and was forwarded to the Prince, the members of the HJC and, in a version with certain confidential items removed, to the highest authorities in Monaco (Minister of State, the authorities which appoint HJC members, judges and public prosecutors) and in France (the authorities which appoint seconded French judges, etc.). The report contains information on the role, functioning and development of the HJC.
19. GRECO notes that no new information has been provided by the authorities concerning the composition of the HJC and therefore that it is still not the case that the majority of HJC members are elected by their peers. The information provided does nothing to alter its assessment that the HJC's involvement in the appointment of judges and prosecutors has not increased. GRECO also takes note of the production of the HJC 2020-2021 activity report – the first for six years – and its transmission, in whole or in part, to a number of political and judicial authorities. It notes however that this report is not made public. Therefore, the recommendation is far from being fully implemented.
20. GRECO concludes that recommendation vii remains partly implemented.

**Recommendation viii**

21. *GRECO recommended (i) that the appointment of members of the Supreme Court be based on a transparent procedure and adequate objective criteria and (ii) that they be provided with appropriate rules on incompatibilities, conflicts of interest and other obligations related to integrity.*
22. It is recalled that in the Interim Compliance Report this recommendation was partly implemented because no new information had been provided on the criteria and procedure for the appointment of Supreme Court members.

23. The authorities of Monaco now state that although the procedures and criteria for the appointment of members of the Supreme Court have not been changed, the appointment process is based on proposals made to the Prince by five functionally independent bodies (the National Council, the Council of State, the Crown Council, the Court of Appeal and the First Instance Court) relating to candidates who are not members of the bodies concerned or of Monaco's main institutions.<sup>1</sup> They add that the Prince's freedom of choice in this respect is strictly circumscribed and limited by the aforementioned procedure, and that the possibility open to the Prince to ask the independent bodies for a new presentation has never been used in practice and can then be considered to have fallen into disuse. Lastly, they note that two appointment criteria are set by the relevant legislation:<sup>2</sup> a minimum age of 40 and being a "particularly well qualified lawyer".
24. GRECO notes that there is a legal framework on the appointment of members of the Supreme Court but it is not able to ensure that these appointments are based on a transparent procedure, particularly with regard to the Prince's power of appointment. This power should be further legally regulated in order to guarantee the transparency and independence of appointments not only in practice, but also in law. It also states that additional criteria to those relating to age and qualifications should be taken into account so as to guarantee that these appointments are decided on objectively. Lastly, GRECO notes that the rules on incompatibility are still unclear and that there are no rules relating specifically to conflicts of interest and to other requirements to do with the integrity of these judges.
25. GRECO concludes that recommendation viii remains partly implemented.

#### **Recommendation ix**

26. *GRECO recommended ensuring the transparency of the process for appointing judges and prosecutors in Monaco, whether seconded or not, based on clear and objective criteria, including for appointments to the most senior positions and for the extension and early termination of secondments.*
27. It is recalled that in the Interim Compliance Report this recommendation was partly implemented. GRECO noted a positive development in the procedure to publish vacancy notices and appoint Monegasque or French judges and prosecutors and acknowledged that a competition for access to a post in the judiciary had been opened for a Monegasque national for the first time in ten years. It stated however that these procedures should be fully formalised in law, including for the renewal of French judges' or prosecutors' secondment periods.
28. The authorities of Monaco now state that thought is being given to clarifying the applicable procedures in the Law on judicial service regulations, while reiterating that secondment procedures are organised in accordance with the bilateral agreement with France. They note that there have been no early terminations of secondments of French judges to Monaco in recent years. Referring to the specific case raised previously by GRECO, they state that it related to the non-renewal of the secondment of a French judge after a period of three years, against which an appeal was lodged without any political interference. The non-renewal decision was upheld by the relevant Monegasque court. The Monegasque authorities point out moreover that a competition for access to Monaco's judiciary was opened again for 2022-2023 following the model of the competition opened in 2020. However, this competition could not be held for lack of candidates. In addition, since the foundation of the Institute for the training of legal professionals in 2021, an annual training course has

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<sup>1</sup> Article 3 of Sovereign Order No. 2.984, amended.

<sup>2</sup> Sovereign Order No. 2.984 on the organisation and functioning of the Supreme Court.

been provided for candidates for the competitive examination for posts in the Monegasque judiciary and the bar examination.

29. GRECO takes note of the information provided but notes that neither the procedures for the appointment of members of the judiciary, including the secondment of French members, nor the procedures for renewal or early termination of French judges' and prosecutors' secondments have been set out clearly in law. Although pragmatic measures are taken to hold competitive entry examinations and train candidates, the transparency needed for the appointment of members of the judiciary and their career development can only be fully secured through appropriate legislative measures. GRECO therefore cannot consider that the recommendation has been fully implemented.
30. GRECO concludes that recommendation ix remains partly implemented.

### III. CONCLUSIONS

31. **In the light of the foregoing, GRECO concludes that Monaco has implemented satisfactorily, or dealt in a satisfactory manner with, twelve of the sixteen recommendations contained in the Fourth Round Evaluation Report.** The remaining four recommendations have been partly implemented.
32. More specifically, recommendations i to iii, v, vi and x to xvi have been implemented or dealt with satisfactorily, and recommendations iv and vii to ix have been partly implemented.
33. As to parliamentarians, significant progress has been made where it comes to strengthening integrity measures, particularly through the adoption of the Rules of Procedure of the National Council, which govern the general conduct of parliamentarians, gifts and their relations with third parties. This has been backed up by an Ethics Charter for National Councillors and the measures taken by the Council's Ethics Adviser to ensure that it is applied, including in terms of public disclosure and training. While the Rules of Procedure do contain relevant provisions, accompanied by control mechanisms and sanctions, on the declaration of private interests at the beginning of terms of office and in an ad hoc manner in the course of the legislative process, it would be desirable for these declarations not to remain confidential but to be made public. The transparency of the legislative process has also been strengthened and is now certified, and the proceedings of the National Council are now published. More public debates on current affairs are possible thanks to the enlarged budget process and votes on Resolutions. Time limits have now been introduced for the transmission to parliamentarians of preparatory texts prior to the work of committees.
34. As to judges and prosecutors, GRECO welcomes the adoption of a Compendium of ethical and deontological principles for judges and prosecutors, and the legislation on the organisation of the Supreme Court and an ethical charter for its members. It regrets however that the appointment of its members lacks transparency and that there are no specific rules on incompatibilities and conflicts of interest concerning them. It is satisfying to note that the number of public hearings at the Court of Revision has increased. The new Law on judicial service regulations has also resulted in substantial progress. The law consolidates the position of the High Judicial Council (HJC) as a guarantor of judicial independence and the application of the service regulations of members of the judiciary alongside the State Secretary for Justice. It also properly regulates the assessment of judiciary members and the initiation of disciplinary proceedings by the HJC while duly separating the functions of prosecution and investigation. However, the composition of the HJC has not been re-balanced,

and it is therefore not composed of a majority of judges elected by their peers. Moreover, the HJC's activity report is not made public. Procedures to announce vacancies and appoint Monegasque or French judges and prosecutors, and to manage their careers, are now more transparent, but should be clarified in law. An integrated, long-term system has been set up at courts and the public prosecution service to manage incompatibilities and parallel activities. The legislation now regulates and safeguards the transparency of instructions to prosecute issued by the State Secretary for Justice by means of a written procedure setting out reasons, which is recorded in the case file.

35. The adoption of this Second Compliance Report terminates the Fourth Round Compliance procedure in respect of Monaco. The authorities of Monaco may, however, wish to inform GRECO of further developments with regard to the implementation of the outstanding recommendations, namely iv and vii to ix.
36. Lastly, GRECO invites the authorities of Monaco to authorise, as soon as possible, the publication of the report.