



Group of States against Corruption  
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

### SECOND ADDENDUM TO THE SECOND COMPLIANCE REPORT

**MALTA**

Adopted by GRECO at its 92<sup>nd</sup> Plenary Meeting  
(Strasbourg, 28 November – 2 December 2022)

## **I. INTRODUCTION**

1. GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors". The [Fourth Round Evaluation Report](#) was adopted at GRECO's 66<sup>th</sup> Plenary Meeting (12 December 2014) and made public on 23 June 2015, following authorisation by Malta.
2. The [Fourth Round Compliance Report](#) was adopted by GRECO at its 75<sup>th</sup> Plenary meeting (24 March 2017) and made public on 27 March 2017. The [Second Compliance Report](#) was adopted at the 83<sup>rd</sup> Plenary meeting (21 June 2019) and made public on 13 December 2019.
3. The [Addendum to the Second Compliance Report](#) was adopted at the 87<sup>th</sup> Plenary Meeting (25 March 2021) and made public on 31 May 2021. As required by GRECO's Rules of Procedure, the authorities of Malta submitted a Situation Report on further measures taken to implement the outstanding recommendations. This report was received on 23 May 2022 and served as the basis for this Second Addendum to the Second Compliance Report.
4. [This Second Addendum to the Second Compliance Report](#) evaluates the progress made in implementing the outstanding recommendations since the Addendum to the Second Compliance Report (i.e. recommendations i, ii, iii, v and vi) and provides an overall appraisal of the level of compliance with these recommendations.
5. GRECO selected the United States of America (with respect to parliamentary assemblies) and Bosnia and Herzegovina (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Jane LEY, on behalf of the United States of America and Mr Adnan DLAKIC, on behalf of Bosnia and Herzegovina. They were assisted by GRECO's Secretariat in drawing up this Second Addendum.

## **II. ANALYSIS**

6. It is recalled that GRECO addressed nine recommendations to Malta in its Fourth Evaluation Report. In the Addendum to the Second Compliance Report, GRECO concluded that four of the nine recommendations (iv, vii, viii and ix) had been implemented satisfactorily by Malta. Five recommendations (i, ii, iii, v and vi) had been partly implemented. Compliance with the five outstanding recommendations is dealt with below.

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

#### **Recommendation i**

7. *GRECO recommended that a thorough review of the current provisions of the Code of Ethics for members of parliament and the Standing Orders related to integrity, ethics, financial/activity declarations and conflicts of interest be undertaken with a view to adopting improvements that will provide more subject matter coverage, consistency and clarity, as well as guidance.*
8. GRECO recalls that this recommendation was partly implemented in the Addendum Second Compliance Report. It acknowledged the progress made with regard to reviewing the Code of Ethics for parliamentarians, which led to a new draft Code that appeared to address most of the issues referred to in recommendation i. However, the process leading to its adoption was still at an early stage as the Parliamentary Commissioner for Standards submitted the draft before the Standing Committee in

July 2020. The need to establish consistency between the new Code and Standing Orders relating to integrity was also highlighted.

9. The Maltese authorities now report that a general election was held in Malta on 26 March 2022, bringing a new legislature on 7 May 2022. The dissolution of the House of Representatives and the electoral process affected the work in progress regarding the review of the Code of Ethics for parliamentarians. According to the authorities, this will be resumed shortly alongside usual parliamentary work.
10. GRECO notes that the central issue of this recommendation is to review the Code of Ethics for MPs and to adopt improvements that will provide more subject matter coverage, consistency and clarity, as well as guidance in a revised/new code. GRECO has in the previous compliance reports acknowledged procedural intentions in this direction and concluded this recommendation partly complied with. However, currently, no tangible progress has been achieved and the Code of Ethics, unfortunately remains the same now as it was at the adoption of the Evaluation Report, more than seven years ago. In addition, a new Parliament has recently been elected and will most certainly have its own agenda. There is no certainty that it will resume this issue. Therefore, GRECO can no longer consider the previously on-going work sufficient to conclude that the recommendation has been complied with, even partly, at this stage.
11. GRECO concludes that recommendation i has not been implemented.

12. **Recommendation ii**

*GRECO recommended that measures be taken to ensure there is appropriate supervision and enforcement of (i) the rules on the declaration of assets, financial interests and outside activities, and (ii) the standards of ethics and conflicts of interest provisions applicable to members of parliament. This clearly presupposes that a range of effective, proportionate and dissuasive sanctions be available.*

13. GRECO recalls that this recommendation was partly implemented in previous compliance reports. The Act on Standards in Public Life had been adopted and a commissioner with supervisory functions appointed. However, there were no sufficient sanctions available, e.g. for late filing, false filing or failure to file the required financial reports. GRECO did not consider that the “reputational damage” alone was equivalent to “effective, proportionate and dissuasive sanctions”.
14. The Maltese authorities do not provide new substantial information in respect of this recommendation. They reiterate their view that the ‘Ombudsman-type’ sanctions by the Commissioner (i.e., to ‘name’ members of the parliament as being guilty of violating standards of conduct) are a sufficient dissuasive tool whose effectiveness is comparable to that of sanctions.
15. GRECO notes that, the factual situation described in the Addendum to the Second Compliance Report has not changed. There is some supervision by the Commissioner, but the sanctions at his/her disposal are not sufficient as already concluded in previous reports.
16. GRECO concludes that recommendation ii remains partly implemented.

**Recommendation iii**

17. *GRECO recommended (i) establishing a dedicated source of confidential counselling to provide parliamentarians with advice on ethical questions, conflicts of interest in relation to their legislative duties, as well as financial declaration obligations; and (ii)*

*providing regular awareness raising activities for members of parliament covering issues, such as ethics, conflicts of interest, acceptance of gifts, honoraria, hospitality and other advantages, outside employment and activities, declarations of financial/activity interests, as well as other activities related to the prevention of corruption and the promotion of the integrity within the Parliament.*

18. GRECO recalls that recommendation iii was partly implemented in previous compliance reports. GRECO welcomed the Commissioner's new function to provide advice to public office-holders and the willingness to distinguish the regulatory from the advisory function of relevant bodies. However, it pointed out that the process was still at an early stage. The authorities did not provide any information regarding awareness-raising activities for parliamentarians.
19. The Maltese authorities do not provide new information in respect of this recommendation, more than that the on-going work will be pursued by the newly elected government and legislature.
20. GRECO notes that, once again, developments have been very slow. The establishment of a commissioner with the function, inter alia, to provide advice was already acknowledged in previous reports. Apart from that, no new achievements have been reported regarding awareness-raising activities for members of Parliament, or other activities related to the prevention of corruption and the promotion of integrity within Parliament.
21. In view of the above, GRECO concludes that recommendation iii remains partly implemented.

*Corruption prevention in respect of judges*

#### **Recommendation v**

22. *GRECO recommended that the system of judicial accountability be significantly strengthened, notably by extending the range of disciplinary sanctions to ensure better proportionality and by improving the transparency of complaints processes.*
23. GRECO recalls that this recommendation was partly implemented in previous compliance reports. In the Addendum to the Second Compliance Report, GRECO welcomed that the Commission for the Administration of Justice had been made in charge of judicial discipline procedures and that the involvement of Parliament in the dismissal of judges had been discontinued. It regretted, however, that no steps had been taken to improve the transparency of complaints processes in the judiciary.
24. The Maltese authorities do not provide new information, more than that the government will approach the Commission for the Administration of Justice in order to implement the recommendation and enhance transparency in the complaints processes.
25. GRECO takes note of the previously acknowledged achievements in respect of judicial disciplinary procedures and the current intention by the authorities to take steps to improve the transparency of complaints processes. The actual situation remains the same as in the previous compliance report as no further steps have been taken, e.g. no published statistics of complaints received, types of breaches and sanctions, etc.
26. GRECO concludes that this recommendation remains partly implemented.

## **Recommendation vi**

27. *GRECO recommended that (i) a compulsory induction training programme, including consideration of judicial ethics, be developed; (ii) that mentoring arrangements for new judges, exploring the ethical implications of appointment, be formalised; and (iii) that a regular programme of in-service training be provided along with targeted guidance and counselling on corruption prevention topics and judicial ethics for the various persons required to sit in court (judges, magistrates, and adjudicators of boards and tribunals).*
28. GRECO recalls that this recommendation was partly implemented in the previous compliance reports. Apart from information concerning some budget provided for trainings, some sporadic training organised and some very limited measures in respect of mentorships, no tangible results had been reported in respect of any of the three elements of this recommendation.
29. The Maltese authorities now report that the progress concerning this recommendation has been delayed by the situation created by the Covid-19 pandemic. Among some developments, the authorities indicate the re-establishment of the Judicial Studies Committee (JSC), the body responsible for training the members of the judiciary, to which a budget of €50,000 has been allocated for training seminars. The Committee offered members of the judiciary the opportunity to attend five training sessions on judicial ethics and corruption over the past year and another one is planned for November 2022. Moreover, the JSC is currently in the process of video recording training sessions in order to offer this material to new members of the judiciary upon their induction which, together with mentoring, is present but not backed up by formal structures.
30. GRECO notes that this recommendation comprises three distinct elements: i) compulsory induction training, ii) mentoring arrangement for new judges and iii) regular in-service training for judges. There have been no considerable achievements in respect of the first two elements. GRECO welcomes the rise in the Judicial Studies Committee's budget for training purposes and notes that five training sessions on judicial ethics and corruption prevention have been offered in the past year, while one is scheduled for November 2022. These initiatives need to be further developed and consolidated. However, as no other new information has been reported by the authorities concerning a formalised compulsory induction training and mentoring, GRECO cannot conclude that this recommendation has been dealt with more than partly.
31. GRECO concludes that recommendation vi remains partly implemented.

## **III. CONCLUSIONS**

32. **In view of the foregoing, GRECO concludes that Malta has implemented satisfactorily or dealt with in a satisfactory manner four out of the nine recommendations contained in the Fourth Round Evaluation Report. Four recommendations have been partly implemented and one not implemented.**
33. More specifically, recommendations iv, vii, viii and ix have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations ii, iii, v and vi have been partly implemented and recommendation i has not been implemented.
34. With respect to members of parliament, it is very disappointing that more than seven years after the issuing of the recommendations, none of them have been fully complied with. A revised Code of Ethics is still lacking. The establishment of the

Commissioner for Standards is to be welcomed, but progress is needed concerning awareness-raising activities and confidential counselling. Moreover, appropriate supervision and enforcement systems of the rules on declaration of assets, interests and outside activities by means of effective, proportionate and dissuasive sanctions are also still lacking.

35. As regards the judges, constitutional changes have paved the way for reinforcing the independence, impartiality and transparency of judicial appointments procedures. Some improvements have been noted in respect of disciplinary proceedings within the judiciary. However, induction training programmes for newly appointed judges as well as in-service training need to be reinforced, together with targeted guidance and counselling on corruption prevention and judicial ethics.
36. In respect of prosecutors, the adoption of a Code of Ethics, including a number of safeguards for the independence of prosecutors in Malta has been a most welcome achievement.
37. The adoption of this Second Addendum to the Second Compliance Report terminates the Fourth Round compliance procedure in respect of Malta. However, in view of the recommendations still outstanding, the Maltese authorities are urged to do more, and are invited to keep GRECO informed of future progress on their implementation.
38. Finally, GRECO invites the authorities of Malta to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.