



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 9 June 2023
Publication: 14 June 2023

Public
GrecoRC4(2023)10

FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

ANDORRA

Adopted by GRECO at its 94th plenary meeting
(Strasbourg, 5 - 9 June 2023)

FOURTH
EVALUATION
ROUND

I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Andorra to implement the recommendations issued in the Fourth Round Evaluation Report on Andorra (see paragraph 2), dealing with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Andorra was adopted by GRECO at its 76th plenary meeting (23 June 2017) and made public on 2 November 2017, following authorisation by the Andorran authorities ([GrecoEval4Rep\(2016\)8](#)). The corresponding Compliance Report, adopted by GRECO at its 85th plenary meeting (21-25 September 2020) and made public on 7 October 2020 ([GrecoRC4\(2020\)3](#)), concluded that the very low level of compliance with the recommendations was "globally unsatisfactory", within the meaning of Rule 31 revised, paragraph 8.3, of the 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 89th plenary meeting (3 December 2021) and made public on 9 December 2021, following authorisation by Andorra ([GrecoRC4\(2021\)20](#)). GRECO concluded that the level of compliance with the recommendations was no longer "globally unsatisfactory". Application of Rule 32 was discontinued and Andorra was requested to submit additional information regarding the implementation of the outstanding recommendations. This report was received on 30 December 2022 and served as a basis for this Second Compliance Report.
4. GRECO asked Monaco (in respect of parliamentary assemblies) and Luxembourg (in respect of judicial institutions) to appoint rapporteurs for the compliance procedure. The rapporteurs appointed were Jean-Marc GUALANDI for Monaco and Cindy COUNTINHO for Luxembourg. They were assisted by GRECO's Secretariat in drawing up this Second Compliance Report.

II. ANALYSIS

5. In its Evaluation Report, GRECO addressed thirteen recommendations to Andorra. In its Interim Compliance Report, GRECO concluded that recommendations i, viii, ix, xi and xii had been implemented satisfactorily or dealt with in a satisfactory manner, that recommendations ii, iii, iv, v, vi, x and xiii had been partly implemented and that recommendation vii had not been implemented. Compliance with the pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendation ii

6. *GRECO recommended that a code of conduct, accompanied by explanatory comments and/or concrete examples, be adopted for the members of the General Council and that it be brought to the knowledge of the public.*
7. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented, because GRECO had not had an opportunity to examine the details of the provisions of the draft Code of Conduct for General Council members, which was in the process of being adopted.
8. The Andorran authorities now report that the Code of Conduct for General Council members was approved by Parliament on 22 December 2022 and has entered into

force. It deals with parliamentarians' obligation to perform their duties in the public interest, and to conduct themselves in an exemplary manner. It lays down the principles of integrity and the ways and means by which those principles are to be exercised, in particular with regard to conflicts of interest, gifts received and travel expenses. It provides for mandatory training for parliamentarians in ethics and the management of conflicts of interest, and introduces the possibility for the Standing Committee to seek external, specific and confidential advice, either of its own accord or upon request by a parliamentarian. To date, the external persons who can give such opinions have not been designated. The Code provides for monitoring of the integrity principles, with sanctions for violations of these principles (see recommendation v below). The Code has been published on the Parliament website and in the Official Gazette of the Principality.

9. GRECO welcomes the adoption and publication of the Code of Conduct for parliamentarians, the purpose of which is to clearly identify the principles of integrity for parliamentarians, including in relation to conflicts of interest. It notes that the Code provides for mechanisms to facilitate its implementation (training for parliamentarians, possibility of seeking confidential advice, monitoring and sanctions). This Code is in line with the expectations of the recommendation. GRECO notes, however, that this Code is not, at this point, accompanied by explanatory comments and/or concrete examples designed to facilitate its implementation and encourages the Andorran authorities to include additional material of this kind. It also notes that the persons competent to make external confidential opinions have not yet been appointed; the system in this area is therefore not yet operational. In these circumstances, GRECO cannot consider that the recommendation has been fully implemented.
10. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii

11. *GRECO recommended introducing an obligation to declare any conflict between a General Council member's specific private interests and a matter examined in parliamentary proceedings (plenary session and in committee), irrespective of whether such a conflict could also be identified under a system of public declaration of interests and activities.*
12. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented. GRECO noted that the code of conduct for parliamentarians would lay down the rules for declaring ad hoc conflicts of interest but had not yet had an opportunity to examine the text.
13. The Andorran authorities now report that the Code of Conduct for General Council members has entered into force and deals with declarations of conflicts of interest, including ad hoc conflicts arising during parliamentary proceedings. The General Council member who is in a conflict of interest is now obliged to report it in writing to the Bureau of Parliament and the relevant parliamentary committee and then has to be replaced by another Council member during the proceedings in committee. This obligation is also included in the regulations of each parliamentary group.
14. GRECO welcomes the adoption in the Code of Conduct for parliamentarians of rules requiring them to report potential conflicts of interest in connection with parliamentary proceedings and, if necessary, to arrange for themselves to be replaced in the relevant committee. These new rules on reporting *ad hoc* conflicts of interest are in line with the objectives of the recommendation.
15. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv

16. *GRECO recommended (i) that a system for the public declaration of General Council members' assets and interests containing quantitative data on financial and business interests (income, assets and significant debt items) be introduced and (ii) that consideration be given to including information on parliamentarians' spouses and dependent family members (on the understanding that this information would not necessarily be made public).*
17. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented. More specifically, GRECO welcomed the introduction of mandatory declarations of assets for parliamentarians, but noted with regret that the declarations were not made public and did not extend to spouses and dependent family members.
18. The Andorran authorities now confirm that under Law 33/2021 on transparency and access to public information, all parliamentarians have declared their assets before a notary.
19. GRECO notes that the legislation requiring parliamentarians to declare their assets is effectively being implemented, but that there has been no progress in terms of making these declarations public or considering extending the system to spouses and dependent family members. While reiterating that it understands the specific features linked to the country's size and the closeness of the ties between its citizens, GRECO reiterates that transparency of elected representatives' activities is an important factor in preventing risks of corruption in relation to conflicts of interest. This involves the publication of their asset declarations, as well as the declarations (not necessarily public) of the assets of the members in their household. This is all the more relevant in Andorra since the majority of parliamentarians work part-time.
20. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v

21. *GRECO recommended that measures be taken to ensure appropriate supervision and enforcement of future disclosure obligations and standards of conduct for parliamentarians.*
22. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented, pending adoption of the Code of Conduct for General Council members. The draft Code provided for a procedure for monitoring and sanctioning violations of the standards of conduct.
23. The Andorran authorities now report that the Code of Conduct, which has entered into force, entrusts the Bureau of Parliament with the task of monitoring implementation of the principles of integrity and Parliament's Standing Committee with the task of monitoring the declarations of interests, published on the Council's website, and the rules on incompatibilities. The bodies in question may take the necessary preventive and remedial measures. At the request of the Bureau, the Standing Committee may report on possible conflicts of interest.¹
24. The authorities also state that with regard to disciplinary proceedings, the Code contains procedural safeguards for the parliamentarian concerned. The Bureau may institute disciplinary proceedings, either *ex officio*, or upon request by a

¹ Chapter V of the Code of Conduct for General Council members.

parliamentary group, and refer the matter to the Standing Committee for examination of the facts and investigation. The Committee must hear the parliamentarian against whom allegations have been made. The Committee submits its report to the Bureau, which has the power to impose a sanction that is made public. The code sets out offences according to their seriousness and the related sanctions, which can range from a written warning to fines of €5 000. In the event of a very serious offence, the Bureau may refer the matter to the plenary session with a view to suspending the parliamentarian until the situation is rectified. The sanctioned parliamentarian may request a review of the decisions and lodge an appeal with the Constitutional Court.

25. GRECO notes that a mechanism for monitoring compliance with the rules on integrity, parliamentarians' declarations of interests and rules on incompatibilities is in place within Parliament, and that disciplinary procedures and internal sanctions are provided for in the Code of Conduct for General Council members, which has entered into force, which is in line with the recommendation.

26. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi

27. *GRECO recommended (i) that training and awareness-raising measures be introduced for members of parliament with regard to the ethical conduct expected of them and the issuance of declarations of interests and (ii) that members of parliament be able to benefit from confidential advice on any issue of ethics or professional conduct.*

28. It is recalled that this recommendation was partly implemented in the Interim Compliance Report, pending adoption of the Code of Conduct for General Council members.

29. The Andorran authorities now report that the Code of Conduct has entered into force and includes a requirement for parliamentarians to receive ethics training at the beginning of their term of office. In addition to this initial training, parliamentarians are now also offered training during their term of office. In addition, the Code of Conduct provides a mechanism for seeking external confidential advice in this area through the Standing Committee (see recommendation ii above).

30. GRECO notes that the Code of Conduct for General Council members, now in force, provides for training and awareness-raising measures for parliamentarians with regard to the ethical conduct expected of them and the issuance of declarations of interests. The Code also provides that parliamentarians may benefit from confidential advice on matters of ethics or professional conduct, though it would be appropriate that parliamentarians should be able to seek this external advice without going through the Standing Committee, in order to reinforce the confidentiality of the system. Despite this desirable improvement, the system put in place complies with the purpose of the recommendation.

31. GRECO concludes that recommendation vi has been dealt with dealt with in a satisfactory manner.

Recommendation vii

32. *GRECO recommended that the composition of the High Council of Justice be modified to ensure that there is appropriate representation of judges and prosecutors elected by their peers in its membership.*
33. It is recalled that in the Interim Compliance Report, this recommendation was not implemented, as no specific measures had been taken to modify the composition of the High Council of Justice (HCJ).
34. The Andorran authorities reiterate that modifying the composition of the HCJ requires constitutional amendments. They now report, however, that Law 38/2022 of 1 December 2022 states that appointments of judges, magistrates and prosecutors to the HCJ must be supported by reasons and evidence of candidates' suitability and that, in addition, persons seeking election to the office of HCJ member elected by judges, magistrates and prosecutors must make their curricula vitae public so that, when casting their ballot, voters are fully informed about the candidates' qualifications.
35. GRECO takes note of the legislative developments which will improve the transparency of the process of appointing the judges and prosecutors who sit on the HCJ and also the HCJ member elected by judges, magistrates and prosecutors. These developments are not sufficient, however, to rebalance the composition of the HCJ to ensure that there is appropriate representation of judges and prosecutors elected by their peers.
36. GRECO concludes that recommendation vii remains not implemented.

Recommendation x

37. *GRECO recommended (i) that training on various topics relating to ethics and integrity continue to be provided on a regular basis for judges, and (ii) that the possibility for judges to obtain confidential advice about these subjects be placed on a permanent and institutional footing.*
38. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented, as the work to create a confidential advice service for judges was still at a preliminary stage. The first part of the recommendation was deemed to have been implemented, because the High Council of Justice provided regular ethics and integrity training to all judges and magistrates.
39. The Andorran authorities draw attention to the HCJ scheme for training judges in ethics and integrity. In addition, they now report that Law 38/2022 of 1 December 2022 introduces integrity principles that apply to members of the HCJ, and which concern for example the asset disclosure requirement, conflicts of interest and activities in which it is prohibited to engage on completion of term of office. This law also requires the HCJ to approve a code of ethics for its members (making it clear that a serious breach of the code can be grounds for removing a member from the HCJ), and a code of ethics for judges and prosecutors. The task of assessing implementation of this code of ethics falls to the HCJ, which may also receive and investigate complaints concerning breaches of ethics.
40. GRECO notes the information provided by the authorities in relation to the codes of ethics for judges, magistrates and prosecutors, and for HCJ members. It points out, however, that these measures do not place the possibility for judges and magistrates

to obtain confidential advice on topics relating to ethics and integrity on an institutional footing. GRECO can therefore only conclude that the second part of the recommendation has still not been implemented.

41. GRECO concludes that recommendation x remains partly implemented.

Corruption prevention in respect of prosecutors

Recommendation xiii

42. *GRECO recommended (i) that training on various topics relating to ethics and integrity continue to be provided on a regular basis for prosecutors and (ii) that the possibility for prosecutors to obtain confidential advice on these subjects be placed on a permanent and institutional footing.*
43. It is recalled that in the Interim Compliance Report, this recommendation was partly implemented, as the work to create a system of confidential advice for members of the Public Prosecution Service was still at an early stage. The first part was deemed to have been implemented satisfactorily, because the High Council of Justice provided regular ethics and integrity training to all prosecutors.
44. The Andorran authorities refer to the ethics and integrity training scheme for prosecutors and to Law 38/2022 of 1 December 2022 concerning the code of ethics (see paragraph 39 above).
45. GRECO notes that no new measures have been taken to place the possibility for prosecutors to obtain confidential advice on topics relating to ethics and integrity on a permanent and institutional footing. It cannot therefore consider the second part of the recommendation to have been implemented.
46. GRECO concludes that recommendation xiii remains partly implemented.

III. CONCLUSIONS

47. **In the light of the foregoing, GRECO concludes that Andorra has now satisfactorily implemented or satisfactorily dealt with eight of the thirteen recommendations in the Fourth Round Evaluation Report.** Of the other recommendations, four have now been partly implemented and one remains unimplemented.
48. More specifically, recommendations i, iii, v, vi, viii, ix, xi and xii have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations ii, iv, x and xiii have been partly implemented and recommendation vii remains unimplemented.
49. With regard to corruption prevention in respect of parliamentarians, significant steps forward have been taken. A Code of Conduct is now in force. It sets out the integrity principles applicable to parliamentarians, introduces an obligation to declare conflicts of interest, including conflicts which arise during proceedings, and provides for mechanisms to facilitate implementation of the Code (training for parliamentarians, possibility of seeking confidential advice, control and sanctions). Declarations of assets are now required, but they are not made public and do not extend to members of the parliamentarian's household. Measures to improve the transparency of the legislative process have been introduced, including an online civic engagement platform.

50. With regard to corruption prevention in respect of judges and prosecutors, the amendment of the Justice Act provides for automatic renewal of judges' terms of office except in the event of disciplinary liability. Ethics and integrity training for judges and prosecutors is in place and the development of a system of confidential advice on ethical issues is being considered. The composition of the High Council of Justice still needs to be modified, however, to ensure that there is appropriate representation of members of the judiciary elected by their peers.
51. In view of the fact that five out of thirteen recommendations are yet to be implemented, GRECO in accordance with Rule 31 revised, paragraph 9, of its Rules of Procedure asks the Head of the delegation of Andorra to submit additional information, namely regarding the implementation of recommendations ii, iv, vii, x and xiii by 30 June 2024.
52. GRECO invites the Andorran authorities to authorise the publication of this report at their earliest convenience, translate it into the national language and make this translation publicly available.