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Groupe d'États contre la corruption

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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 ITALY

Adopted by GRECO at its 96th Plenary Meeting
(Strasbourg, 18-22 March 2024)

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I. INTRODUCTION

1. The Second 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". The Fourth Round Evaluation report on Italy was adopted at GRECO's 73rd Plenary Meeting (21 October 2016) and made public on 19 January 2017, following authorisation by Italy.
2. The [Compliance Report](#) was adopted by GRECO at its 81st Plenary Meeting (7 December 2018) and made public on 13 December 2018, following the authorisation by Italy. The [Second Compliance report](#) was adopted by GRECO at its 87th Plenary Meeting (25 March 2021) and made public on 29 March 2021, following the authorisation by Italy. The [Addendum to the Second Compliance Report](#) was adopted by GRECO at its 91st Plenary Meeting (17 June 2022) and made public on 14 September 2022, following the authorisation by Italy.
3. As required by GRECO's Rules of Procedure, the authorities of Italy submitted a Situation Report on further measures taken to implement the outstanding recommendations. This report was received on 6 November 2023 and served, together with additional information, as a basis for this Second Addendum to the Second Compliance Report.
4. 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 Miriam Bahamonde BLANCO, on behalf of Spain, and Ms Elisabetta BUCCI, on behalf of San Marino. They were assisted by GRECO's Secretariat in drawing up the Second Addendum to the Second Compliance Report.

II. ANALYSIS

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

Corruption prevention in respect of members of parliament

6. The early dissolution of Parliament, which took place on 21 July 2022, has had an impact on the conclusion of the legislative and regulatory initiatives which had been introduced to implement GRECO's recommendations. Following the parliamentary elections of September 2022, the new Parliament took office in October 2022. All the Chamber of Deputies' bodies have been reconstituted and the interrupted activities have resumed.

Recommendation i

7. 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.

8. GRECO recalls that this recommendation was partly implemented. The Chamber of Deputies' Committee on the Rules of Procedure (the Rules) was examining relevant amendments to the Rules in order to integrate the Code of Conduct therein, while targeted guidance on its provisions was not issued. A Code of Conduct for Senators was adopted, but no guidance was provided on its provisions. The effectiveness of the supervision and sanctions envisaged under the Code of Conduct of the Senate would be assessed after it had become operational for some time.
9. The Italian authorities now report that, following the reconstitution of the Chamber of Deputies' bodies, a proposal to amend the Rules of Procedures, with a view to including the Code of Conduct therein, has been re-submitted¹. A debate is expected to take place in the Committee on the Rules of Procedure. The text of the Senate's Code of Conduct has been published on the Senate's website².
10. GRECO notes that, owing to the reconstitution of the Chamber of Deputies' bodies as a result of the parliamentary elections, there has not been any tangible progress concerning the first part of the recommendation. No information has been provided with respect to the implementation of the second and third parts of the recommendation, the situation remaining the same as reported in the previous compliance report. It takes note that the text of the Senate's Code of Conduct has become public.
11. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii

12. *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.*
13. GRECO recalls that this recommendation was not implemented on account of the lack of tangible measures to address both parts of the recommendation. The draft amendments to Law no. 215/2004 on Conflicts of Interest for members of the Government were not adopted and the authorities appeared to have discontinued pursuing their adoption.
14. The Italian authorities now report that, as regards the first part of the recommendation, on 2 March 2023 the Constitutional Affairs Committee of the Chamber of Deputies examined draft law no. 304³ laying down "Provisions on conflict of interest and delegation of powers to the Government for adopting provisions regarding local government officeholders and members of independent supervisory and regulatory authorities as well as provisions on the prohibition on the receipt of payments from foreign states by holders of public office". If adopted, the draft law would repeal Law no. 215/2004 and apply, amongst other officials, to holders of State/Government offices, such as the Prime Minister, the Deputy Prime Ministers, Ministers, Deputy Ministers, Under-Secretaries of State and Extraordinary Commissioners of the Government. The draft law consists of 18 articles and reproduces the text already submitted to the previous legislature, with the addition

¹ The current proposal is identical to the previous one

(<https://www.camera.it/leg19/1424?legislatura=19&tipo=II&numero=6>).

² https://www.senato.it/sites/default/files/media-documents/Codice_condotta_Senatori.pdf

³ <https://www.camera.it/leg19/126?tab=&leg=19&idDocumento=304&sede=&tipo>

of rules concerning the ban on receiving payments (exceeding 5,000 euros annually) from foreign States by holders of public office, including by members of the Chamber of Deputies and the Senate, during their term of office and in the year following the termination thereof (Article 15). Article 3 lays down the definition of a conflict of interest and Article 7 provides for a general obligation to abstain from decision-making in the event of a conflict-of-interest situation. Article 4 lists a series of general incompatibilities with holding a government office, that are additional to those already in force, and Article 5 regulates incompatibilities arising from assets, providing that the mere ownership or possession of large assets may also give rise to conflicts of interest. Both Articles 4 and 5 lay down the manner to address such incompatibilities. Article 6 provides for reporting (disclosure) obligations of conflicts of interests and incompatibilities upon assuming a Government office and upon leaving office (such obligation to be extended to the spouse, relatives or relatives-in-law within the second degree of kinship). The Competition and Market Authority will monitor the implementation of and compliance with the provisions of the draft law and may impose penalties (fines and other measures) in case of a breach, as stated in Articles 8 to 12. The draft law may be considered by the Chamber of Deputies on 25 March 2024 and any amendments may be submitted to the Constitutional Affairs Committee until 7 March 2024.

15. In addition, certain other draft laws regulating conflicts of interests have been initiated by the Senate and are pending for examination by the Constitutional Affairs Committee of the Chamber of Deputies. For example, draft Law no. 125 on the Discipline of the activity of institutional relations for the representation of interests is pending for review before the Senate's First Standing Committee. The draft Law intends to regulate relations between institutional representatives (so-called "public decision makers") and interest representatives (so-called "lobbyists") and provide for the establishment of a public register with which all interest representatives will have to register. A monitoring committee will be responsible for maintaining, monitoring, publishing and regularly updating the public register and ensuring the transparency of public decision-making processes and the relationship between interests and political and administrative choices.
16. Lastly, although the provisions relating to parliamentary ineligibility and incompatibility are complex and stratified over time, it should be noted that the main sources governing this matter are contained in the Constitution, Law no. 60 of 13 February 1953 on Parliamentary Incompatibilities, Decree no. 361 of 30 March 1957 of the President of the Republic on the Consolidated text of Laws laying down rules for the election of the Chamber of Deputies, Legislative Decree no. 235 of 31 December 2012 on the Consolidated text of the provisions on ineligibility and the prohibition on the holding of elective and governmental positions following final sentences of convictions for non-culpable crimes and Legislative Decree no. 39 of 8 April 2013 on Provisions on the disqualification and incompatibility of positions in the public administration and in publicly-controlled private entities).
17. Concerning the second part of the recommendation, the Chamber of Deputies' Elections Committee, which had been set up on 16 November 2022, concluded the examination of the declarations of the positions filed by 400 parliamentarians in December 2022. In the first place, it examined positions held in the regions and municipalities with a population exceeding 15,000 inhabitants that were incompatible with the office of parliamentarian under the Constitution and the domestic legislation. Consequently, in January 2023, the Elections Committee was informed that five deputies had renounced the positions which were deemed incompatible and had

opted for the office of parliamentarian. Secondly, the Elections Committee focused its examination on cases of possible situations of ineligibility. It confirmed the absence of such cases regarding 147 deputies elected in single-member constituencies and is expected to do the same, in February 2024, in respect of the remaining 253 deputies elected in multi-member constituencies and the Overseas constituencies. Thirdly, an *ad hoc* committee, which was set up within the Elections Committee, is still examining any incompatibilities with the position of parliamentarian in view of Law no. 60/1953. The Elections Committee had on several occasions highlighted the need to proceed – as soon as possible in the current term – with a systematization of the regulatory framework regarding ineligibility and incompatibilities also with the aim of updating its contents in light of the evolution of the economic and productive context.

18. The Senate primarily focused on the checks concerning the correctness of the election results for the purpose of validating the elections of senators. These checks were completed by November 2023, within a year from the elections results. In addition, at the beginning of the parliamentary term in December 2022, the Senate promptly decided to declare the incompatibility of the positions held by senators within regional councils, which was in breach of Article 122 of the Constitution⁴. The senators concerned decided, within a few days, to opt either for the position of senator or retain the position of regional councillor, with the consequent resignation from the Senate. In one instance, the Senate concluded that holding a position within a public limited company by a senator was compatible with the parliamentary mandate. In January 2024, the special Committee for the Examination of Offices began the investigation in order to ascertain any instances of incompatibility with the offices that the senators have declared to hold.
19. GRECO takes note of the proposed draft law on conflicts of interest and incompatibilities regarding Government officeholders, which has been examined by a parliamentary committee and scheduled for consideration by the Chamber of Deputies. If adopted, it will apply only to parliamentarians who are members of the Government, except for the provisions on the prohibition on the receipt of payments from foreign states which will also apply to parliamentarians. The fact remains that the first part of the recommendation requires the adoption of clear and enforceable conflict-of-interest rules for all parliamentarians. GRECO further recalls its concerns about the lack of consolidation of the existing rules on eligibility of and incompatibility with the office of member of parliament, which, as acknowledged by the authorities themselves, are dispersed in several laws. In these circumstances, it can be concluded that this part of the recommendation has been partly implemented.
20. As regards the second part of the recommendation, GRECO notes that, following the reconstitution of the new Parliament in October 2022, the Chamber of Deputies' Election Committee has undertaken a three-step process of verification of ineligibility/incompatibility of other positions with the office of the member of parliament for all of its 400 members. As the process is still ongoing and lengthy, GRECO regrets that it falls short of the requirement for "an effective and timely" process of verification. The Senate has embarked on the process of verification of incompatibility with the office of senator, which is ongoing. In these circumstances,

⁴ According to Article 122 of the Constitution, "no one may belong, at the same time, to a Regional Council or a Regional Government and either to one of the Chambers of Parliament, another Regional Council, Regional Government or the European Parliament".

it cannot be considered that this part of the recommendation has been more than partly implemented.

21. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii

22. *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.*
23. GRECO recalls that this recommendation was partly implemented. A draft proposal, which had been put forward by the Advisory Committee on the Conduct of Deputies and was awaiting adoption, expanded on the content of the Code of Conduct and laid out detailed rules on donations, gifts, hospitality, favours and other benefits for deputies, including in connection with their obligations to declare travel accommodation expenses covered by sponsors. The elaboration of the Senate's Code of Conduct ought to pay due attention to this issue too.
24. The Italian authorities now report that, following the reconstitution of the new Parliament, the new Advisory Committee on the Conduct of Deputies decided to resume the examination of this issue at its meeting of 19 April 2023⁵ with a view to drawing up a new draft text to be submitted to the President of the Chamber and the Bureau. In addition, Article 15 of draft Law no. 304 (see paragraph 14 above) will lay down a prohibition on members of the Chamber of Deputies and the Senate to not accept payments, contributions, benefits from foreign States exceeding a value of 5,000 euros annually, during their term of office and in the year following the termination thereof (see also paragraph 14 above). Also, they refer to Law no. 1261 of 31 October 1965 on the determination of the allowance payable to members of Parliament⁶. Moreover, according to Article 5 of the Senate's Code of Conduct, senators will verify that the value of gifts accepted in the performance of their duties is in accordance with the custom of courtesy.
25. GRECO notes that, owing to the reconstitution of the new Parliament, there has been no tangible progress towards the implementation of this recommendation. Work is expected to resume afresh in order to bring about progress towards the fulfilment of the recommendation. The proposed draft Law no. 304, which will include a prohibition on the receipt of payments from foreign State, does not alter the situation, since it falls short of the more holistic approach of the recommendation to establish a consistent and robust framework on gifts, hospitality, favour and other benefits for parliamentarians (by, for example, significantly lowering the threshold for accepting gifts, strictly articulating the precise coverage of the restrictions to be put in place, mandatorily reporting the receipt and acceptance of gifts and publishing a register of gift, etc.). The same observations apply to the Senate's Code of Conduct. In these circumstances, GRECO considers that its previous conclusion that this recommendation was partly implemented cannot be maintained.

⁵ https://www.camera.it/leg19/1360?shadow_organo_parlamentare=3802&id_tipografico

⁶ The first paragraph of Article 3 provides that the parliamentary allowance may not be combined with any salary, allowance, medal or attendance fee deriving from tasks of an administrative nature, conferred by the State, public entities, banks governed by public law, private entities concessionary of public services, by private entities with State shareholdings and by private entities having business dealings with the State, the Regions, the Provinces and the Municipalities".

26. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv

27. *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.*

28. GRECO recalls that this recommendation was partly implemented. A post-employment ban regarding lobbying activities of former parliamentarians was introduced. Prior amendments to the Law on Conflicts of Interest, which would have introduced a one-year cooling-off period on leaving office, were discontinued. The Chamber of Deputies had approved a bill on lobbying, the examination of which was not concluded by the Senate before the end of its term.

29. The Italian authorities now report that the Constitutional Affairs Committee has been conducting a fact-finding survey on lobbying activities since March 2023 in order to assess, amongst others, the opportunities and, possibly, the modalities of the involvement in the lobbying activities of persons who have previously held institutional positions or otherwise held positions in public institutions. A final report will be produced after the end of the survey, which has been scheduled on 31 March 2024. In addition, they refer to the draft Law no. 304, as described in paragraph 14 above.

30. GRECO notes that, other than a study undertaken to assess the extent of lobbying, no tangible progress has been made towards the implementation of this recommendation and recalls that the present recommendation is broader than restrictions on lobbying. It also covers other situations where parliamentarians may join/return to the private sector which could lead to conflicts of interest in the performance of parliamentary functions. Draft Law no. 304 does not address the issue of post-employment restrictions.

31. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v

32. *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.*

33. GRECO recalls that this recommendation was not implemented. Rules on parliamentarians' engagements with lobbyists, as well as detailed guidance on the matter, were lacking in both houses of parliament.

34. The Italian authorities now report that internal rules governing the exercise of lobbying activities have been in place since 2017⁷. The Regulation on interest representation activities to the Chamber of Deputies provides for the setting up of a register of persons carrying out interest representation activities towards members

⁷ <https://www.camera.it/leg19/38?conoscerelacamera=337>

of the Chamber of Deputies⁸. Members of the register are required to submit to the Chamber of Deputies an annual report on the interest representation activities carried out during the year, giving an account of the contacts made, the objectives pursued and the persons on whose behalf the activity was carried out as well as the employees or collaborators who participated in the activity. Failure to comply with the Regulation may lead to suspension or removal from the register⁹. The Senate points to Guidelines for public consultations¹⁰ which have been in force since 2017.

35. In addition, draft Law no. 368 regarding certain provisions governing particular lobbying activities and the establishment of a lobbyists public register aims to promote transparency and regulation of public decision-making processes with regard to the involvement of 'pressure groups'. To this end, it provides for the establishment of a public register for the transparency of lobbying activities at the Competition and Market Authority. Registration is compulsory for anyone wishing to carry out lobbying activities before the public decision-maker. Also, draft law no. 608 regarding certain provisions regulating the activity of institutional relations for lobbyists has the same objective of regulating lobbying activities, establishing a similar public register of lobbyists to be held by the National Council for Economics and Labour. The Senates Committee on Constitutional Affairs is considering the provisions contained in draft Laws no. 368 and 608.
36. GRECO takes note of the regulations provided by the authorities, which lay down provisions governing the activity of lobbyists, impose an obligation on lobbyists to register their activities with the Chamber of Deputies and require lobbyists to file an annual activities' report. It also notes two draft laws aiming at setting up public registers of lobbyists, who wish to carry out lobbying activities towards the public decision-maker. While these are positive steps to ensure publicity and transparency on the part of lobbyists, the recommendation calls for rules and guidance regarding the other side of the equation, i.e. parliamentarians, in their relations and contacts with lobbyists. No targeted measure has been taken in this respect. The Senate's Guidelines for public consultations do not alter the situation or address the requirements of this recommendation.
37. GRECO concludes that recommendation v remains not implemented.
Recommendation vi
38. *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.*
39. GRECO recalls that this recommendation was not implemented.
40. The Italian authorities do not report any developments regarding this recommendation.

⁸ The list of legal entities and physical persons exercising interest representation activities is accessible at <https://rappresentantiinteressi.camera.it/sito/registro.html>. Information is entered by members of the Register and the Chamber of Deputies is not liable for the veracity of the information found therein.

⁹ Sanctions imposed on lobbyists or third parties for failure to submit annual reports are accessible at <https://rappresentantiinteressi.camera.it/sito/sanzioni.html>.

¹⁰ http://www.senato.it/application/xmanager/projects/leg18/attachments/documento/files/000/028/616/linee_guida_consultazioni_ITA.pdf

41. GRECO regrets the lack of progress towards the implementation of this recommendation and concludes that recommendation vi remains not implemented.

Corruption prevention in respect of judges and prosecutors

Recommendation x

42. *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.*
43. GRECO recalls that this recommendation was partly implemented on account of a draft bill which had envisaged restrictions on political and other non-judicial activities of magistrates (see paragraphs 45-47 of the Addendum to the Second Compliance Report) and was awaiting adoption.
44. The Italian authorities now report that Law no. 71/2022 has been adopted and published in the Official Gazette and has entered into force.
45. GRECO takes note of the entry into force of Law no. 71/22, the content of which was described in the previous compliance report. It is satisfied that the restrictions put in place meet the requirements of both parts of the recommendation.
46. GRECO concludes that recommendation x has been implemented satisfactorily.

III. CONCLUSIONS

47. **In view of the foregoing, GRECO concludes that Italy has implemented satisfactorily or dealt with in a satisfactory manner six of the twelve recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations three remain partly implemented and three have not been implemented.
48. More specifically, recommendations vii, viii, ix, x, xi and xii have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, ii and iv have been partly implemented and recommendations iii, v and vi have not been implemented.
49. As regards parliamentarians, owing to parliamentary elections and the reconstitution of a new Parliament in October 2022, there has been inadequate progress towards the implementation of the outstanding recommendations, none of which has been fully implemented. However, the authorities have expressed their intention to implement the outstanding recommendations. In particular, they intend to integrate the Code of Conduct in the Chamber of Deputies' Rules of Procedures and ensure the Code's effective enforcement within an adequate timeframe. Certain draft laws on conflicts of interest are pending for examination before the Chamber of Deputies, and GRECO expects that they will consolidate the currently fragmented legal framework. Work on establishing a consistent and robust framework on gifts, hospitality, favour and other benefits for parliamentarians is scheduled to resume. Lastly, steps have been taken to establish a register of lobbyists, while concrete efforts are needed to develop rules on how parliamentarians engage with lobbyists and other third parties. GRECO urges the authorities to bring these initiatives to

fruition in order to strengthen the system of corruption prevention and integrity of members of parliaments.

50. As regards judges and prosecutors, it is commendable that all relevant recommendations have been implemented satisfactorily.
51. The adoption of this Second Addendum to the Second Compliance Report terminates the Fourth-Round compliance procedure in respect of Italy. The authorities of Italy may, however, wish to inform GRECO of further developments regarding the implementation of the outstanding recommendations i-vi.
52. 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.