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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 GEORGIA

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 Georgia to implement the recommendations issued in the [Fourth Round Evaluation Report on Georgia](#) covering "Corruption prevention in respect of members of parliament, judges and prosecutors". The Evaluation Report on Georgia was adopted at GRECO's 74th Plenary Meeting (2 December 2016) and made public on 17 January 2017, following authorisation by Georgia.
2. The [Compliance Report](#) was adopted by GRECO at its 82nd Plenary Meeting (22 March 2019) and made public on 2 July 2019, following authorisation by Georgia. The [Second Compliance report](#) was adopted by GRECO at its 87th Plenary meeting (25 March 2021) and made public on 12 April 2021, following authorisation by Georgia. The [Addendum to the Second Compliance Report](#) was adopted by GRECO at its 91st Plenary meeting (17 June 2022) and made public on 13 July 2022, following authorisation by Georgia.
3. As required by GRECO's Rules of Procedure, the authorities of Georgia submitted a Situation Report on further measures taken to implement the outstanding recommendations. This report was received on 29 September 2023 and served, together with additional information, as a basis for this Second Addendum to the Second Compliance Report
4. GRECO selected Estonia (with respect to parliamentarians) and the United States of America (with respect to judges and prosecutors) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Kätlin-Chris Kruusmaa on behalf of Estonia, and Ms Michelle Morales on behalf of the United States of America. They were assisted by GRECO's Secretariat in drawing up this Second Addendum to the Second Compliance Report.

II. ANALYSIS

5. GRECO addressed 16 recommendations to Georgia in its Evaluation Report. At the preceding stages of the compliance procedure, eight recommendations (namely, recommendations v, vi, x, xi, xii, xiii, xv and xvi) had been implemented satisfactorily or dealt with in a satisfactory manner, six recommendations (specifically, recommendations i, ii, iii, iv, vii and viii) had been partly implemented and two recommendations (in particular, recommendations ix and xiv) had not been implemented. Compliance with the eight pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendation i

6. *GRECO recommended further enhancing the transparency of the legislative process, including by further ensuring that draft legislation, amendments to such drafts and information on committee work (including on agendas and outcome of meetings) are published in a visible and timely manner, and by establishing a uniform regulatory framework for the public consultation procedure in order to increase its effectiveness.*
7. GRECO recalls that this recommendation was partly implemented because of steps that had been taken to enhance the transparency of the legislative process (the Parliament's website and parliamentary committees' webpages were updated, draft laws and amendments were regularly published, and the Rules of Procedure were amended providing for increased transparency of parliamentary committees' work). While there existed a detailed consultation procedure for constitutional amendments,

as set out in the Constitution and the Parliament's Rules of Procedure, there was no statutory obligation on Parliament to proactively consult stakeholders on certain pieces of legislation initiated by the Government or Parliament.

8. The authorities report that amendments to the Rules of Procedure, which came into force in June 2022, brought about certain changes: they provide for only partial closure of committee meetings, they introduce detailed rules for publishing protocol and audio records of completed meetings of parliamentary committees, and they regulate the disclosure of functioning and operation of parliamentary committees' working groups. Parliamentary committees have already complied with the adopted rules, by setting up working groups and publishing agendas and reports online. As of 1 September 2022, the transmission of Parliament's plenary and committee meetings as well as the Bureau's meetings and other parliamentary events has become possible through the YouTube platform. Future draft amendments will include the proactive publication of verbatim records of committee deliberations/hearings. In addition, the authorities refer to provisions of the Rules of Procedure which have been set out in the Second Compliance Report. In their view, Parliament allows for effective and meaningful consultations in the legislative process. This has also been demonstrated by the conclusion of a Memorandum of Understanding between Parliament and the Georgian National Platform for Eastern Partnership Civil Society Forum on 20 October 2023, which, according to the authorities, was assessed positively by the European Commission's 2023 report on Georgia¹.
9. GRECO takes note of the amendments to the Parliament's Rules of Procedure ensuring the publication of agenda and records of Parliament's plenary and committee meetings. These are welcome developments and contribute to enhancing the transparency of the legislative process. However, the recommendation also calls for the establishment of a regulatory framework by and for Parliament to conduct effective and meaningful consultations on legislation (by, for example, requiring Parliament to enable the public to submit written comments, articulate their interests and concerns, within an adequate time-frame, to organise public hearings or debates to discuss and scrutinise draft legislation, to compile, assess and provide justification for the rejection of comments made by the public, to publish the updated draft legislation in view of the comments received by the public, etc.). The conclusion of a memorandum of understanding between Parliament and civil society is a step in the right direction, and that still needs to be supplemented by the establishment of a regulatory framework, as required by the recommendation.
10. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii

11. *GRECO recommended that (i) an enforceable code of ethics/conduct be adopted covering various situations of conflicts of interest (e.g. gifts and other advantages, incompatibilities, additional activities and financial interests, third party contacts, including with lobbyists) and that it be made easily accessible to the public; (ii) the code be complemented by practical measures for its implementation, including through awareness-raising and dedicated training, confidential counselling and credible monitoring.*
12. GRECO recalls that this recommendation was partly implemented. The first part of the recommendation had been fully addressed thanks to the adoption of a Code of Conduct for parliamentarians in 2019. As regards the second part of the recommendation, the Council of Ethics had yet to become operational and decide on

¹ <https://op.europa.eu/en/publication-detail/-/publication/86d42452-7eee-11ee-99ba-01aa75ed71a1/language-en> (see, in particular, page 12).

alleged breaches of the Code of Conduct, and confidential counselling had yet to be provided to parliamentarians.

13. The authorities have provided no new information.
14. In the absence of any progress, GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii

15. *GRECO recommended that a requirement for ad hoc disclosure be introduced when a conflict between specific private interests of individual members of parliament and a matter under consideration in parliamentary proceedings may emerge, that clear rules for such situations be developed, and that the operation of this mechanism be subject to monitoring.*
16. GRECO recalls that this recommendation was partly implemented. The statutory requirements for parliamentarians to disclose any entrepreneurial activities was found to be too narrow, and no progress had been made to oblige parliamentarians to disclose *ad hoc* conflicts of interest.
17. The authorities have provided no new information.
18. In the absence of any progress, GRECO concludes that recommendation iii remains partly implemented.

Corruption prevention in respect of judges

Recommendation iv

19. *GRECO recommended reforming the recruitment and promotion of judges, including by ensuring that any decisions in those procedures by the High Council of Judges a) are made on the basis of clear and objective, pre-established criteria – notably merit, in a transparent manner and with written indication of reasons, and b) can be appealed to a court.*
20. GRECO recalls that this recommendation was partly implemented. Several steps had been taken to ensure that the process for the selection and nomination of candidate judges to the Supreme Court complied with the requirements of this recommendation. More efforts were required to show that this practice would apply to the recruitment and promotion of all judges (other than those appointed to the Supreme Court).
21. The authorities report that, following amendments to the Organic Law on Common Courts of Georgia (LCC) on 13 June 2023, the appointment of first instance and appellate court judges will be conducted in line with the procedure provided for the appointment of Supreme Court judges. For the sake of completeness and better understanding and assessment of the LCC as it now stands, paragraphs 22-25 below present an overview of the process for the recruitment and promotion of judges.
22. As regards judicial candidates, Article 34 of the LCC² lays down the requirements to become a judge. In addition to the general eligibility criteria³, Article 34(2) provides

³ According to Article 34(1), "a capable citizen of Georgia over the age of 30 who has a higher legal education with at least a master's degree or an equivalent academic degree/diploma of higher education, has at least five years of working experience in the specialty, speaks the state language, has passed a judge's qualification exam, has completed a full training course of the High School of Justice and is entered on the Justice Trainee Qualifications List shall be appointed/elected as a judge".

certain disqualification criteria⁴. Under Article 35, a person is appointed to a vacant position of a judge of a district (city) court or court of appeals for a period of three years, or – in the cases provided for by law – for life⁵. Before deciding on the appointment of a judge for a period of three years to a district (city) court or court of appeals, the HCJ publicly announces the conduct of a competition through the official press organ and on its official website, in accordance with the time-limits laid down by law. A judicial candidate will be evaluated based on two major criteria: integrity⁶ and competence⁷, in accordance with Article 35¹, which further lays down detailed guidance for the assessment of constituent elements of each criterion. Article 35³ provides that, at the time of conducting a competition for holding a vacancy of a judge, a candidate for a judgeship may, based on a substantiated motion, make a request for recusal of a member of the HCJ if there is a conflict of interest, in particular a circumstance that casts doubt on the objectivity, independence and/or impartiality of the member of the HCJ⁸. Decisions will be taken by the HCJ, without the concerned member participating in the voting process. The decision on appointment will be taken by two thirds of the votes of the full membership of HCJ, who are guided by the procedure for the selection of a candidate to be nominated to the Parliament of Georgia for the election to a Supreme Court judgeship –(see paragraph 25 below). According to Article 19¹ (1), HCJ decisions on the refusal to appoint a judge are amenable to appeal before the Qualification Chamber of the Supreme Court.

23. Article 36 provides that the HCJ may decide on the appointment of a judge for life by at least two-thirds of its full membership. The decision on appointment for life is taken based on six evaluation reports, drawn up at regular intervals, by different evaluators (one judge and one non-judge member of the HCJ), independently from one another. The judge concerned is informed of the purpose of the assessment procedure⁹ and of the identity of evaluators. The judge concerned may file a motion for the recusal of evaluators on the grounds of a conflict of interest, which is decided upon by the HCJ. If the evaluators draw up unfavourable reports, that is, if more than half of the evaluators consider that the judge fails to meet the integrity criterion, and/or the sum of the points allocated to the judge based on competence criterion does not add up to 70% of the total of available points, the President of the HCJ will refuse to consider the lifetime appointment of the judge. The President's refusal may be appealed against before the HCJ. Following the review of the appeal, the HCJ will, by an open ballot, and by two-thirds majority of its full composition, decide to revoke the HCJ President's refusal and conduct an interview with the judge concerned. As regards the decision-making process, each member of the HCJ is required to submit a written substantiation of his/her decision, recorded during the voting, to the Secretary of the HCJ immediately after the end of the voting. The results of the voting, the decisions taken by the members of the HCJ during the voting, and the reasons for these decisions are to be published on the HCJ's website. Dissenting opinions are also published. According to Article 19¹ (1), HCJ decisions on the refusal to appoint a judge

⁴ Article 34(2) states that "a convicted person, as well as a person dismissed from the position of a judge on the grounds provided for in Article 43(1)(b) of this Code (with the exception of cases when the provision of Chapter XIII1 of this Law has become invalid, on the basis of which a person was dismissed from the position of a judge) or on the grounds provided for in paragraph (1)(h) of the same article may not be appointed/elected to the position of a judge."

⁵ Appointments for a period of three years will be made until 31 December 2024. Pursuant to the Constitutional Law of 13 October 2017, as from 1 January 2025 judges will be appointed for life, without any prior appointment for three years.

⁶ Elements of the criterion of integrity are as follows: personal integrity and professional conscience, independence, impartiality and fairness, personal and professional behaviour, personal and professional reputation, and financial liability.

⁷ Elements of the criterion of competence are as follows: knowledge of legal norms, the ability for legal reasoning and competence, writing and oral communication skills, professional qualities, academic achievements and professional training, and professional activity.

⁸ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2023\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2023)007-e)

⁹ Article 36⁴ provides details about the procedure for assessing a judge's activity, which will entail, amongst others, an assessment of the judges' judicial activity, five cases decided by the judge, the integrity and competence criteria.

for life are amenable to appeal before the Qualification Chamber of the Supreme Court on the grounds laid down in Article 36⁵.

24. As regards the promotion of a judge to a court of appeals, Article 41 reads that a judge of a district (city) court may be promoted to a court of appeals if he/she has exercised judicial powers in a district (city) court during at least five years. The HCJ will establish criteria for promotion of a judge. According to Article 37 (2), when there is a vacancy, a judge of a district (city) court is appointed, without competition, to another court of the same instance or as a judge of a court of appeals if s/he meets the requirements set forth in Article 41 (i.e. has served for five years). Article 13¹ of the HCJ's Rules of Procedure regulates the procedure for appointing a judge to another court without competition and sets forth the relevant criteria. Under Article 13^{1.11} of the Rules of Procedure, a judge may be appointed as a judge of the court of appeals, if his/her competence, experience, professional and moral reputation is compliant with the high rank of the judge of court of appeals and s/he has at least five years' experience of working as a judge of district (city) court. Upon publication of vacancies on the HCJ's website, any judge of the common courts may apply in writing. The HCJ reviews the applications and invites the candidates for an interview. The HCJ will appoint a person as a judge of another court, if the candidate is supported by at least two third of the full composition of the HCJ, who vote by a secret ballot. The reasoning for the decision is made public. HCJ decisions are amenable to appeal before common courts.
25. As regards the process of selection and election of Supreme Court judges, the HCJ commences the procedure in accordance with the time-limits provided for in Article 34¹. Interested candidates will have to submit a template application form, together with the required list of documents. At the expiry of the deadline for applications, the HCJ prepares a list of eligible candidates and publishes it online. Unsuccessful candidates may appeal against the HCJ decision to not include them on the list of eligible candidates to the Qualification Chamber of the Supreme Court. After the conclusion of the appeal proceedings, the HCJ organises public hearing for each candidate. At the conclusion of the public hearings, HCJ members will award points to each candidate under the competence criterion, also evaluating the criteria of integrity, and will substantiate in writing each point and each element of the criteria. The assessments and justifications will include the name, surname and signature of the relevant HCJ member. All this information will be made public on the HCJ's website. Upon the publication of the assessment, the HCJ will issue a decision listing candidates who succeeded to proceed to the next stage as well as candidates who did not succeed. Unsuccessful candidates may appeal against the HCJ decision refusing to include them on the list to the Supreme Court's Qualification Chamber on one of the grounds contained in Article 34³. The HCJ will then vote each successful candidate, individually, at an open meeting, in the following order: the candidate with the best result among the successful candidates will be voted first and the other candidates will be voted in order. If any candidate fails to win the support of at least two thirds of the full composition of the HCJ, the other candidates will not be voted. A member of the HCJ participating in the voting process will, immediately after voting, submit a written justification for his/her decision recorded during the voting to the Secretary of the HCJ. A candidate is presented to the Parliament for election to the position of a judge of the Supreme Court, if he/she is supported by at least two thirds of the full composition of the HCJ. The voting results, the decisions taken by the members of HCJ during the voting, and the reasoning for these decisions will be published on the HCJ's website. Under Article 36(2), a judge of the Supreme Court is elected, upon recommendation of the HCJ, by the Parliament by a majority of the total number of members for an unlimited term until reaching the retirement age.
26. GRECO notes that, by way of general remarks, when assessing the implementation of a recommendation, it is bound by the findings (contained in paragraphs 92-94) of

the Evaluation Report which led to the adoption of the recommendation, the intervening developments to implement the recommendation and GRECO's subsequent assessment. GRECO may act in reliance on other reports and will endeavour to take their findings into account, to the extent relevant. Turning to the Evaluation Report, GRECO found that the process and criteria for recruitment and promotion of judges were absent or not clear, that the decision-making process lacked transparency, objectivity and reasons, that voting within HCJ was secret and that the right to appeal against HCJ decisions was missing.

27. GRECO considers that, in view of the information provided by the authorities and the statutory provisions of the Common Court Law, the recruitment of judges to district (city) courts or courts of appeal, whether for a period of three years or for life, is to be based on the assessment of clear criteria (namely, the integrity and competence). HCJ decisions are to be taken by open ballots, reasons are to be provided by each HCJ member, information is to be published on the HCJ's website and unsuccessful candidates are given the right to appeal against HCJ decisions. The same observations are equally applicable to the process of selection of Supreme Court judges, which appears to be open, transparent and objective. GRECO expects that the application in practice of the statutory amendments will be in line with the requirements of this recommendation.
28. GRECO is, however, seriously concerned that the procedure of promotion of a judge of a district (city) court to a court of appeals without competition, is not governed by clear and objective criteria, thus not in line with the principles of transparency and meritocracy (decisions are taken by secret ballot and no disclosure of the assessment by HCJ members is made public). It is for this reason that the recommendation has not been more than partly complied with. Lastly, GRECO's findings are without prejudice to the findings made by the Venice Commission, in a series of opinions given in 2022-2023 in the framework of judicial reforms in Georgia, which go beyond the scope of this recommendation.
29. GRECO concludes that recommendation iv remains partly implemented.

Recommendation vii

30. *GRECO recommended (i) that the "Norms of Judicial Ethics" be updated, communicated to all judges and made easily accessible to the public; (ii) that they be complemented by practical measures for the implementation of the rules, such as further written guidance and explanations, further training and confidential counselling.*
31. GRECO recalls that this recommendation was partly implemented. The first part of the recommendation was fully implemented. As regards the second part of the recommendation, additional measures had to be taken to produce a commentary on the adopted Rules of Judicial Ethics, provide further training and confidential counselling to judges.
32. The authorities report that in 2023, a basic course on judicial ethics was organised for 49 judicial candidates. Also, 82 judges have received training on the updated Rules on Judicial Ethics in 2023. Furthermore, the High Council of Justice has set up a working group in March 2023 to produce a commentary on the updated Rules on Judicial Ethics, and its work has reached the final stage of the production of the commentary.
33. GRECO notes that judicial candidates and judges have continued to receive training on the updated Rules on Judicial Ethics, and that work is ongoing for the production of a commentary which is expected to contain practical measures and examples for

the implementation of the Rules. No information has been provided on the provision of confidential counselling.

34. GRECO concludes that recommendation vii remains partly implemented.

Recommendation viii

35. *GRECO recommended taking appropriate measures to increase the effectiveness, transparency and objectivity of disciplinary proceedings against judges, inter alia, by defining disciplinary offences more precisely; ensuring in-depth examination of complaints submitted to the High Council of Justice and requiring that its decisions to dismiss cases be reasoned, notified to the complainant and subject to review; introducing a simple majority requirement for the Council's decisions; and removing the Council's power to send private recommendation letters to judges as a disciplinary measure.*
36. GRECO recalls that this recommendation was partly implemented. The only outstanding issues concerned the absence of a possibility of review of HCJ decisions terminating disciplinary proceedings.
37. The authorities have provided no new information.
38. In the absence of any progress, GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix

39. *GRECO recommended that the immunity of judges be limited to activities relating to their participation in judicial decision-making ("functional immunity").*
40. GRECO recalls that this recommendation was not implemented.
41. The authorities have provided no new information.
42. In the absence of any progress, GRECO concludes that recommendation ix remains not implemented.

Corruption prevention in respect of prosecutors

Recommendation xiv

43. *GRECO recommended widening the scope of application of the asset declaration regime under the Law on Conflict of Interest and Corruption to cover all prosecutors.*
44. GRECO recalls that this recommendation was not implemented, whereas draft statutory amendments were envisaged extending the scope of asset declaration regime to all prosecutors.
45. The authorities report that amendments to the Law on Combatting Corruption¹⁰, which entered into force on 24 May 2023, have widened the definition of 'public official' who will be subject to the declaration regime, by extending the scope of Article 2 to all prosecutors. As a result, all prosecutors have submitted asset declarations to the Civil Service Bureau, replaced by the Anti-corruption Bureau as of 1 September 2023, which are publicly available online¹¹.

¹⁰ <https://matsne.gov.ge/ka/document/view/5802168?publication=0#DOCUMENT:1>

¹¹ <https://declaration.acb.gov.ge/?cult=en-US>

46. GRECO welcomes the statutory amendments that have introduced the obligation on all prosecutors to submit declarations of assets and concludes that recommendation xiv has been implemented satisfactorily.

III. CONCLUSIONS

47. **In view of the foregoing, GRECO concludes that Georgia has implemented satisfactorily or dealt with in a satisfactory manner nine of the sixteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations six remain partly implemented and one has not been implemented.
48. More specifically, recommendations v, vi, x, xi, xii, xiii, xiv, xv and xvi have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, ii, iii, iv, vii and viii have been partly implemented and recommendation ix has not been implemented.
49. With respect to members of Parliament, the authorities have taken measures to enhance transparency of the Parliament's work, by updating Parliament's website and parliamentary committees' webpages, publishing protocol and audio records of meetings of parliamentary committees and making available recordings of plenary and committed meetings on social media. However, there has been no progress in respect of a few matters. No regulatory framework has been established for conducting effective and meaningful public consultation during the legislative drafting process, no developments have been made regarding the provision of confidential counselling and the operation of the Council of Ethics to monitor the parliamentarians' Code of Conduct, and there is no obligation on parliamentarians to disclose *ad hoc* conflicts of interest. GRECO urges the authorities to implement the outstanding recommendations in order to strengthen the system of integrity of members of parliament.
50. As far as judges are concerned, GRECO notes the positive developments regarding the process and procedure for the appointment of judicial candidates to vacant positions of judges of district (city) courts or courts of appeals for a period of three years or for life, as well as the process of selection of Supreme Court judges. However, serious efforts should be made to bring the process of promotion of judges to courts of appeals in line with GRECO's recommendation for transparency, objectivity and meritocracy. The authorities are also urged to limit judges' immunity to what is strictly necessary for carrying out the functions of a judge, i.e. to functional immunity.
51. Regarding prosecutors, GRECO welcomes that all recommendations have been implemented, noting, in particular, that all prosecutors have been made subject to the disclosure requirements of assets, interests and liabilities under domestic law.
52. The adoption of this Second Addendum to the Second Compliance Report terminates the Fourth-Round compliance procedure in respect of Georgia. The authorities of Georgia may, however, wish to inform GRECO of further developments regarding the implementation of the outstanding recommendations i-iv and vii-ix.
53. Finally, GRECO invites the authorities of Georgia to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.