



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



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FOURTH EVALUATION ROUND

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

ADDENDUM TO THE SECOND COMPLIANCE REPORT

GERMANY

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

FOURTH
EVALUATION
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I. INTRODUCTION

1. The Addendum to the Second Compliance Report assesses the measures taken by the authorities of Germany to implement the recommendations issued in the Fourth Round Evaluation Report on Germany (see paragraph 2), dealing with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report on Germany](#) was adopted at GRECO's 65th Plenary Meeting (on 10 October 2014) and made public on 28 January 2015, following authorisation by Germany. The corresponding [Compliance Report](#) was adopted by GRECO at its 75th Plenary Meeting (on 24 March 2017) and made public on 6 July 2017, following authorisation by Germany.
3. The [Second Compliance Report](#) adopted by GRECO at its 83rd Plenary Meeting (on 21 June 2019) and made public on 12 August 2019, following authorisation by Germany, concluded that the overall very low level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.
4. In the [Interim Compliance Report](#), adopted by GRECO at its 87th plenary meeting (on 25 March 2021) and made public on 10 May 2021, GRECO concluded that the overall low level of compliance with the recommendations remained "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure.
5. In the [Second Interim Compliance Report](#), adopted by GRECO at its 91st plenary meeting (on 17 June 2022) and made public on 22 November 2022, it was concluded that Germany had made some progress in implementing the recommendations since the March 2021 Interim Compliance Report. Four of the eight recommendations contained in the Fourth Round Evaluation Report (recommendations iii, v, vii and viii) had been implemented satisfactorily or dealt with in a satisfactory manner. The four outstanding recommendations had all been partly implemented (recommendations i, ii, iv and vi).
6. As required, the authorities of Germany submitted a Situation Report on measures taken to implement the outstanding recommendations. This report was received on 29 September 2023 and served as a basis for the current Addendum to the Second Compliance Report.
7. GRECO selected the Slovak Republic (in respect of members of parliament) and Switzerland (in respect of judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Zusana ŠTOFOVÁ, on behalf of the Slovak Republic, and Mr Olivier GONIN, on behalf of Switzerland. They were assisted by GRECO's Secretariat in drawing up the Addendum to the Second Compliance Report.
8. This [Addendum to the Second Compliance Report](#) assesses the further implementation of the four outstanding recommendations since the adoption of the Second Interim Compliance Report (Recommendations i, ii, iv and vi) and performs an overall appraisal of the level of Germany's compliance with these recommendations.

II. ANALYSIS

Corruption prevention in respect of members of parliament

Recommendation i

9. *GRECO recommended that the transparency of the parliamentary process be further improved, e.g. by introducing rules for members of parliament on how to interact with lobbyists and other third parties seeking to influence the parliamentary process.*
10. GRECO assessed this recommendation as partly implemented in the Second Interim Compliance Report. GRECO welcomed the adoption of the Lobbying Register Act but expressed some concerns about its scope and the available exceptions. Moreover, specific rules were missing for members of parliament on their interaction with lobbyists and other third parties seeking to influence the parliamentary process, as called for in the recommendation.
11. The German authorities now report that amendments have been drafted with respect to the Lobbying Register Act through an Amendments Bill ([paper 20/7346](#)). This Bill was adopted by the plenary of the *Bundestag* on 19 October 2023 (*Bundestag printed paper 20/8828*) and published on 15 January 2024 in the Federal Law Gazette. It has entered into force on 1 March 2024. These adopted amendments notably include widening the scope of the Act to include the establishment of contacts in the executive by the heads of division upwards with MPs' staff, parliamentary groups and groupings in Parliament for the discussion of matters regulated by the Act (Section 1(2)). The materiality threshold for the obligation to register has been lowered, which means that in the future it will already apply to 30 (instead of 50) "interest representation contacts" for a period covering the last three months (Section 2(1) no.5).
12. The authorities explain that the adopted amendments also establish transparency in the lobbying register with respect to the employment of former MPs and officials in "areas of activity of lobbyists". In the future, revolving doors will be flagged in the register entry. Should a lobbyist have performed one of the relevant activities in the legislature or in the executive (i.e. holding office as a member of the Federal Government or as a Parliamentary State Secretary, being a Member of the *Bundestag*, or employed by a Member of the *Bundestag* or by a parliamentary group or grouping in the *Bundestag* or exercising a function or office in the federal administration) in the five years prior to becoming a lobbyist or if s/he still actively performs such an activity, this information will be provided in the register. This information must also be provided by natural persons under a contract (or those that are subcontracted) to represent special interests. The rules relating to revolving doors take into account that the aforementioned groups of people have very good political networks that facilitate their influence on the decision-making process (Section 3(1) no. 3).
13. The adopted amendments also provide that all draft law or regulation proposals to which the lobbying effort is directed must be indicated in the register entry (Section 3(1) no. 5). Any important opinions and expert reports relating to the draft law/regulation in question addressed to MPs/relevant public officials must also be uploaded. In addition, those who are "contracted representatives of interests" are obliged to indicate at which proposed law or regulation their lobbying efforts are directed (Section 3(2)). Natural persons acting for a contractor also need to be identified (even if subcontracted). In this respect, a total of over 500 lobbyists have named contracting bodies in the register. The aim of these detailed rules is to ensure that the chain of contracts/sub-contracts cannot be used to circumvent the transparency requirements of the Lobbying Register Act.

14. As a result of the substantial increase in the information to be disclosed in the register (notably widening the scope to the working level, the indication of a “revolving doors effect” and the obligation to upload important written opinions and expert reports), the adopted amendments do not provide for the disclosure of MP’s individual personal contacts. In addition, transparency regarding MP’s individual personal contacts is unlikely to comply with Article 38(1) sentence 2 of the German Basic Law. Furthermore, a more effective regulation has been put in place to increase the visibility of the concerns raised and steps taken by representatives of special interests.
15. GRECO takes note of and welcomes these developments. The adopted amendments significantly strengthen the coverage of the Lobbying Register Act, thus further increasing the transparency of the parliamentary process. GRECO acknowledges that, although this section of the report is dedicated to members of parliament, and the introduction of rules/guidance on their interactions with lobbyists would have been welcome, the wording of this recommendation only gave this as an example that could be followed. By placing the burden on lobbyists/third parties (but not on MPs) to disclose contacts with members of parliament, the authorities have nonetheless addressed the issue of improving the transparency of the parliamentary process as per the overall objective of the recommendation.
16. Therefore, GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

Recommendation ii

17. *GRECO recommended (i) that a requirement of ad hoc disclosure be introduced when a conflict between specific private interests of individual members of parliament may emerge in relation to a matter under consideration in parliamentary proceedings – in the Bundestag plenary or its committees – independently of whether such a conflict might also be revealed by members’ declarations of activities and income; and (ii) that members of parliament be provided written guidance on this requirement – including definitions and/or types of conflicts of interest – as well as advice on possible conflicts of interests and related ethical questions by a dedicated source of confidential counselling.*
18. GRECO assessed this recommendation as partly implemented, for both parts, in the Second Interim Compliance Report. In relation to the first part of the recommendation, GRECO welcomed the introduction of *ad-hoc* disclosure for committee members and rapporteurs in committee meetings. However, this obligation does not extend to the *Bundestag* plenary. Regarding the second part of the recommendation, written guidance had been developed for members of the Bundestag on *ad-hoc* disclosure. However, no dedicated source of confidential counselling had been established and the advisory role was still played by a political figure (i.e. the President of the *Bundestag* or staff of the *Bundestag* Administration).
19. The German authorities reiterate that an obligation to disclose conflicts of interest on an *ad hoc* basis in the *Bundestag* plenary is not considered feasible nor essential. This is because, under the *Bundestag* Rules of Procedure and in practice, it is the committees that play the key role in the legislative process. The authorities do not provide any update regarding confidential counselling.
20. GRECO takes note of the information provided by the authorities and observes that no progress has been made towards the implementation of this recommendation. Consequently, GRECO concludes that recommendation ii remains partly implemented.

Recommendation iv

21. *GRECO recommended that appropriate measures be taken to ensure effective supervision and enforcement of the current and future declaration requirements, rules on conflicts of interest and other rules of conduct for members of parliament, inter alia, by strengthening the personnel resources allocated by the Bundestag Administration.*
22. GRECO assessed this recommendation as partly implemented in the Second Interim Compliance Report. GRECO asked for additional details regarding the supervision system of the applicable integrity requirements for members of parliament in order to ensure their effectiveness in practice.
23. The German authorities now indicate that the report on the investigation and sanction procedures prescribed by Section 51(6) of the Members of the *Bundestag* Act, which was initiated during the 19th electoral term, was published on 23 September 2022 as a *Bundestag* printed paper (20/3500). The stricter Code of Conduct entered into force just before the end of the 19th electoral term and therefore did not yet apply to the procedures by which the President informs the *Bundestag* and interested members of the public about her report. Hence, the President's first appraisal of the application of the new rules will apply to the next report. Nonetheless, the September 2022 report made it clear that infringements were and would continue to be systematically followed up. To that end, in the 19th electoral term of the *Bundestag*, a total of 386 investigation procedures were initiated for possible contraventions by Members of the *Bundestag*. A total of 51 cases ended in the abandonment of proceedings, for 296 cases the proceedings ended with a warning (admonishment). In eight of these cases the warning was issued by the President and for the other 288 cases the MPs were made aware of their infringements by the *Bundestag* Administration. It is a graduated approach under which MPs who have breached a declaration time limit for the first time are simply made aware of this fact. It is only in the event of a repeated breach that a warning from the President would apply leading up to an administrative fine. Five breaches led to the identification of a breach, out of which one resulted in an administrative fine. A total of 34 procedures could not be concluded during the 19th electoral term.
24. Other developments reported by the German authorities include a significant increase in the staff of Division PM 1 (creation of several new posts), which is the unit responsible for the Code of Conduct. The posts now include three desk officers, three assistant desk officers and four administrative officers. In addition, the Commission of the Council of Elders on the Legal Status of Members of the *Bundestag* presented a report evaluating the application of the amendments to the Members of the *Bundestag* Act designed to improve the transparency rules for Members of the *Bundestag* to the Council of Elders in May 2023. The report established that the legislative amendments had led to a more comprehensive list of declaration requirements for Members and that its publication created greater transparency for the general public. It suggested that an e-submission gateway be established to enable Members to submit and review the required entries and updates electronically at any time. This would facilitate the use of the system and improve the Members' practice with respect to reporting obligations. The aim after the completion of the e-submission gateway is to provide a better presentation of the Members' declarations and a means for the interested public to search the published details. The report also recommends that the existing legislation be clarified and amended in various places. The Council of Elders has referred the report to the Committee on the Rules of Procedure for deliberation. The process of deliberation in the committee is still pending.

25. The German authorities also reported that the first publication of Members' declarations under the Code of Conduct was completed in May 2023. They explain that there are various reasons for this lengthy delay in the first publication of the information disclosed by all MPs. Notably, as a result of the extensive amendments made to the Code of Conduct, all the previously collected data on MPs – including those who were re-elected – had to be collected again. When the statutory time limit for the initial submission expired in January 2022, there were still no implementing provisions for the revised declaration requirements. The implementing provisions adopted by the Council of Elders finally entered into force on 13 May 2022. As a result, both the MPs and the Administration had to review the originally declared information in the light of the new provisions. In addition, the database also needed to be adapted to the new provisions, which could not be done until the implementing provisions had entered into force in May 2022. In order to deal with all these tasks, more staff was needed (one assistant desk officer, two support officers and two desk officers), the hiring of which was achieved in December 2022. Finally, work is currently being carried out on a e-submission gateway for the declarations required by the Code of Conduct. It should be available to MPs soon and should improve the speed and efficiency of publishing MPs' declarations.
26. GRECO takes note and welcomes the progress made with respect to this recommendation. The personnel resources allocated by the *Bundestag* Administration towards supervision tasks has been strengthened, as recommended. Extensive details have also been provided regarding enforcement experience, and future possibilities are being explored to further improve compliance with integrity-related rules in the *Bundestag*. GRECO appreciates the efforts made by the authorities in this domain.
27. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Corruption prevention in respect of judges

Recommendation vi

28. *GRECO recommended that appropriate measures be taken with a view to enhancing the transparency and monitoring of secondary activities of judges. The Länder are to be invited to contribute to such a reform process.*
29. GRECO assessed this recommendation as remaining partly implemented in the Second Interim Compliance Report. No further progress had been reported by the authorities since the Interim Compliance Report, which welcomed explanatory guidelines on the application of rules on secondary activities of judges and the submission of annual reports on secondary activities by all federal courts on their judges. At the time, GRECO had considered that no further measures had been taken to improve the transparency of secondary activities of judges as these reports were not published.
30. The German authorities have provided no further information regarding this recommendation.
31. Consequently, GRECO concludes that recommendation vi remains partly implemented.

III. CONCLUSIONS

32. **In view of the foregoing, GRECO concludes that six out of the eight recommendations contained in the Fourth Round Evaluation Report have now been implemented satisfactorily or dealt with in a satisfactory manner.** The two outstanding recommendations have all been partly implemented.
33. More specifically, recommendations i, iii, iv, v, vii and viii have been implemented satisfactorily or dealt with in a satisfactory manner and recommendations ii and vi have been partly implemented.
34. With respect to members of Parliament, GRECO appreciates that positive steps have been taken to strengthen the supervision and enforcement of integrity-related rules in the *Bundestag*. GRECO also notes the positive step taken with the adoption of amendments introducing improvements to the Lobbying Register Act, including extending its application and flagging revolving doors in register entries on the employment of former MPs and officials. *Ad-hoc* disclosure should be required for the *Bundestag* plenary and confidential counselling needs to be established.
35. As far as judges are concerned, only one recommendation remains outstanding, which requires more transparency in respect of judges' secondary activities.
36. The adoption of this Addendum to the Second Compliance Report terminates the Fourth Round compliance procedure in respect of Germany. The German authorities may, however, wish to inform GRECO of further developments with regard to the implementation of pending recommendations ii and vi.
37. Finally, GRECO invites the authorities of Germany to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.