



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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## FOURTH EVALUATION ROUND

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

### ADDENDUM TO THE SECOND COMPLIANCE REPORT LUXEMBOURG

Adopted by GRECO at its 95<sup>th</sup> Plenary Meeting  
(Strasbourg, 27 November - 1 December 2023)

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## I. INTRODUCTION

1. The [Fourth Round Evaluation Report on Luxembourg](#) was adopted at GRECO's 60th plenary meeting (21 June 2013) and made public on 1 July 2013, following authorisation by Luxembourg. GRECO's Fourth Evaluation Round addresses "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. In the [Compliance Report](#), adopted at GRECO's 68th Plenary Meeting (19 June 2015), it was concluded that Luxembourg had satisfactorily implemented only one of the 14 recommendations contained in the Fourth Round Evaluation Report. Eight recommendations had been partly implemented and five had not been implemented.
3. In the [Second Compliance Report](#), adopted by GRECO at its 77th plenary meeting (18 October 2017), it was concluded that Luxembourg had satisfactorily implemented or dealt with only four of the 14 recommendations contained in the Evaluation Report (six others had been partly implemented and four not implemented). In view of this result, GRECO concluded that the 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, paragraph 2 (i) concerning members not in compliance with the recommendations contained in the mutual evaluation report and asked the Head of the Delegation of Luxembourg to provide a report on the progress made in implementing the outstanding recommendations.
4. In the [Interim Compliance Report](#), adopted by GRECO at its 82nd plenary meeting (22 March 2019), it was concluded that Luxembourg had made some progress since the previous report, although that progress had had no impact on the number of fully implemented recommendations. Four of the 14 recommendations contained in the Evaluation report remained satisfactorily implemented and the remaining 10 had been partly implemented. GRECO therefore concluded once again that the level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.
5. In the [Second Interim Compliance Report](#), adopted by GRECO at its 86th plenary meeting (29 October 2020), it was concluded that Luxembourg had made no progress in implementing the recommendations and in the case of one recommendation, there had even been a step backwards since the previous report. Four of the 14 recommendations remained satisfactorily implemented, nine had been partly implemented and one recommendation had once again become not implemented. GRECO therefore concluded that the level of compliance with the recommendations remained "globally unsatisfactory" and decided to continue applying Rule 32.
6. In the [Third Interim Compliance Report](#), adopted by GRECO at its 90th plenary meeting (25 March 2022), it was concluded that Luxembourg had satisfactorily implemented six of the 14 recommendations contained in the Evaluation Report. The other eight recommendations had all been partly implemented. GRECO therefore concluded that the level of compliance with the recommendations was no longer "globally unsatisfactory" and decided to cease its application of Rule 32. It asked the head of the Luxembourg Delegation to provide a report on the progress made in implementing the outstanding recommendations (i.e. recommendations i, v, vi, vii, ix, x, xiii and xiv) by 31 March 2023 at the latest. That report, received on 30 March 2023, forms the basis for this Addendum to the Second Compliance Report.
7. GRECO instructed Switzerland (with respect to parliamentary assemblies) and Bulgaria (with respect to judicial institutions) to appoint Rapporteurs for the

compliance procedure. The Rapporteurs appointed were Mr Olivier GONIN, for Switzerland, and Mr Florian FLOROV, for Bulgaria. They were assisted by GRECO's Secretariat in drawing up this report.

8. This Addendum to the Second Compliance Report assesses the further implementation of the eight recommendations outstanding since the adoption of the Interim Compliance Report (Recommendations i, v, vi, vii, ix, x, xiii and xiv) and performs an overall appraisal of the level of Luxembourg's compliance with these recommendations.

## II. ANALYSIS

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

#### **Recommendation i**

9. *GRECO recommended that i) as intended with the current draft Code of Conduct, a set of ethical rules and standards be adopted with the aim of preventing corruption and safeguarding integrity in general; ii) these rules be supplemented by an implementing instrument providing the necessary clarifications.*
10. GRECO points out that this recommendation was partly implemented. The first part of the recommendation had been implemented through the adoption and entry into force in 2014 of the Code of Conduct relating to financial interests and conflicts of interest for the members of the Chamber of Deputies.<sup>1</sup> As for the second part of the recommendation, the Bureau of the Chamber of Deputies adopted an implementing instrument providing further clarification of certain provisions of the Code on 26 April 2018. GRECO had welcomed this text in one of its previous reports but had felt that it should be more illustrative in nature, providing specific, and above all fuller, examples to explain all the Code's provisions, including those relating to conflicts of interest and lobbying. Further clarification of these concepts was provided as a result of discussions in parliamentary committee, but GRECO pointed out that the information was not easily accessible. It urged the Luxembourg authorities to compile a summary of the outcomes of these discussions in a document to be appended to the Code of Conduct.
11. The Luxembourg authorities state that the Code of Conduct relating to financial interests and conflicts of interests for the members of the Chamber of Deputies was revised on 23 July 2023. It continues to form an integral part of the Rules of Procedure of the Chamber of Deputies. The Code has been clarified and the ethical rules applying to Members of Parliament (MPs) have been made more precise, in order to strengthen their effective applicability. In particular, a distinction has been made between situations requiring MPs to make declarations, on the one hand, and public representative missions, on the other.
12. In this context, a new Practical Guide to Ethics and Transparency was adopted by the Bureau of the Chamber on 11 October 2023. It will be distributed to members of the new Chamber of Deputies, which was constituted on 24 October following the elections on 8 October 2023.
13. GRECO takes note of the Practical Guide to Ethics and Transparency, which was adopted by the Chamber of Deputies on 11 October 2023, and which will be distributed to the Deputies of the new legislature. It notes that this Guide provides practical examples and guidelines on the application of the Code, particularly with

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<sup>1</sup> [www.legilux.public.lu/leg/a/archives/2014/0201/a201.pdf#page=2](http://www.legilux.public.lu/leg/a/archives/2014/0201/a201.pdf#page=2)

regard to gifts, invitations and relations with lobbyists. These provisions are a useful addition to the provisions of the Code of Conduct and thus meet the requirements of the second part of the recommendation, which has now been fully implemented. GRECO recalls that the first part of the recommendation has already been implemented.

14. GRECO concludes that recommendation i is implemented satisfactorily.

#### **Recommendation v**

15. *GRECO recommended the introduction of an effective system of monitoring and sanctions concerning breaches of the rules of the future Code of Conduct for members of parliament.*
16. GRECO recalls that this recommendation was partly implemented. A new monitoring and sanctioning mechanism had been introduced in July 2014 to ensure compliance with the various provisions of the Code of Conduct. It involved an independent advisory committee issuing recommendations on shortcomings reported by MPs and on the powers of the Speaker of the Chamber to take reasoned decisions and decide on sanctions.<sup>2</sup> It provided for a range of sanctions and also the possibility of appeal. But GRECO had found that the measures taken, while positive developments, were still insufficient, in particular because the Code did not entrust the monitoring bodies with responsibility for checking the accuracy of declarations and no details were given regarding the means of parliamentary oversight. The Institutions and Constitutional Review Committee had recommended that the Chamber of Deputies be given the necessary means of oversight to detect false or inaccurate declarations, but its recommendations had not yet been followed up. In July 2018, it became possible for any citizen suspecting irregularities in an MP's declaration of financial interests to refer the matter to the Speaker of the Chamber. GRECO had welcomed this development but noted that it could not be a substitute for genuine proactive monitoring by the Chamber of Deputies itself, which was the only way of guaranteeing full and effective oversight.
17. The Luxembourg authorities point out that the declaration is the personal responsibility of the MPs. The declarations are published on the internet and are therefore accessible to the public. Since the launch of a new Chamber of Deputies website in October 2022, the transparency register can be accessed from the home page. The press is also regularly interested in these declarations and verifies the content indicated.
18. Numerous discussions were held by the competent bodies of the Chamber to adapt the Code of Conduct for Members and the Transparency Register to practice and to eliminate the problems of application encountered. In the course of these changes, the disciplinary section of the Chamber's Rules of Procedure applicable to MPs was extensively amended. Finally, the authorities refer to past and future training activities.
19. GRECO takes note of the positive information provided, which nevertheless does not alter its analysis concerning the implementation of the recommendation, as set out in paragraph 16. GRECO has stressed on numerous occasions in its reports that monitoring by the press and civil society of the content of MPs' declarations is essential. State authorities cannot, however, absolve themselves of their own monitoring responsibilities by arguing that such monitoring exists.

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<sup>2</sup> The Conference of Committee Chairs initiates the disciplinary procedure against the Speaker of the Chamber and imposes sanctions for any wrongdoing.

20. GRECO concludes that recommendation v remains partly implemented.

*Prevention of corruption of judges and prosecutors*

21. As a preliminary point, the Luxembourg authorities explain that the revision of Chapter VI of the Constitution on the justice system, which had been approved in a first vote in the Chamber of Deputies on 20 October 2021, was adopted by the Law of 17 January 2023. The new wording refers not only to the independence of the Public Prosecution Service, but also to the principle of setting up the National Judicial Council and enshrining the regulations for judges and prosecutors in the Constitution and in law. The Laws of 23 January 2023 on the National Judicial Council and introducing regulations for members of the judiciary came into force on 1 July 2023.

**Recommendation vi**

22. *GRECO recommended that under the rules of the future National Judicial Council, the procedures for the promotion of the various categories of judges and public prosecutors, including access to senior functions of president or vice-president of a court and Principal State Prosecutor, should be reviewed and made more transparent, particularly through the use of objective criteria and periodic appraisal.*
23. GRECO points out that this recommendation was partly implemented. In its last report, it noted that the revision of the chapter in the Constitution on the justice system, which had been approved in a first vote in the Chamber of Deputies, was in line with the recommendations regarding judges and prosecutors. However, the complete provisions for each of the recommendations were not available.
24. The Luxembourg authorities now report that the Law of 23 January introducing regulations for members of the judiciary, which was published in Mémorial No. 42 of 25 January 2023 (Official Gazette of Luxembourg) and entered into force on 1 July 2023, applies to all members of the judiciary in the ordinary courts, whether judges or prosecutors. It also applies to administrative judges. The same rules apply to all members of the judiciary, irrespective of their field of activity (Article 1).
25. Promotions are made solely on the basis of calls for applications for vacancies published on the Justice website (Article 4), thereby ensuring the transparency of the procedure. All candidates for promotion are subject to the same rules, with no exceptions allowed. Applications are submitted through the relevant hierarchy to the President of the National Judicial Council. It is this Council, as an independent body, which manages the rest of the procedure.
26. The National Judicial Council requests a substantiated opinion from the head of the professional category to which the member of the judiciary belongs at the time of the application and from the head of the professional body with the vacancy if the member of the judiciary applies to another court, another prosecution service or another section of the judiciary (Article 7). In the case of applicants who are at the head of their professional category, their character and professional skills are assessed by the President of the High Court of Justice, the Principal State Prosecutor or the President of the Administrative Court (Article 8). In support of their substantiated opinion, the heads of the relevant professional bodies may seek the opinion of any judge or prosecutor and of any public official assigned to the judiciary. The National Judicial Council and the applicant are informed of these opinions. The latter may submit comments on the opinions (Article 8, paragraph 3). The National Judicial Council keeps the opinions and comments received in the applicant's personal administrative file for a period of six months from the date on which the decision on the application becomes final.

27. Article 9 of the Law sets out the conditions to be met by applicants, which include integrity requirements. These are assessed by the Principal State Prosecutor on the basis of the applicant's criminal record, information on any criminal convictions for crimes or offences, or police reports of acts likely to constitute a crime or offence, where such acts are the subject of ongoing criminal proceedings.
28. For the functions of President of the High Court of Justice, Principal State Prosecutor or President of the Administrative Court, the National Judicial Council invites each applicant to a personal interview. For other judicial or prosecutorial positions, this interview is optional (Article 10).
29. Applicants are selected by the National Judicial Council on the basis of their professional ability, character and their position in the judicial hierarchy. The professional and character requirements include their suitability for the target profile, previous professional experience, the substantiated opinion of the head of the relevant professional category, the results of integrity checks and, where appropriate, the individual interview (Articles 12 and 13).
30. The National Judicial Council must state the reasons for its choice (Article 13). The proposal for appointment is submitted to the Grand Duke, who must appoint the successful applicant. He may not choose another applicant or veto the appointment.
31. With regard to the part of the recommendation concerning "periodic appraisal", the authorities provide the following information: judges and prosecutors are appraised when they apply for a promotion. In addition, the heads of the relevant professional categories are required to publish an annual activity report describing for the general public all the activities carried out by their body, the number of cases dealt with, the difficulties encountered, the solutions proposed, the recommendations made and the deadlines to be met. Through the publication of this annual report, the work of those in leadership positions is subject to rigorous scrutiny, not only by their peers, but also by the general public. Since the recommendation only stated that an assessment mechanism should be put in place, and not that it was mandatory, the authorities consider that these provisions are sufficient.
32. GRECO welcomes the information provided on the promotion system for judges, prosecutors and administrative court judges. It considers that this mechanism, which is based solely on applications in response to vacancy notices published online, provides the necessary guarantees of objectivity and transparency required by the recommendation. The selection is made by the National Judicial Council on the basis of the opinions of the heads of the relevant professional category. The law sets out the selection criteria and, in some cases, provides for an interview. The Council must give the reasons for its choice and the Grand Duke, who is the appointing authority, may not overrule it. These provisions apply to all judges and prosecutors, including presidents of courts and public prosecutors.
33. As regards the introduction of a periodic appraisal system for judges and prosecutors, GRECO points out that such a system is undoubtedly useful because, as pointed out in the Evaluation Report, it makes it possible to set up a dialogue on the respective expectations of judges and prosecutors and their superiors, for superiors to monitor judges' and prosecutors' work regularly on the basis of objective criteria and for there to be means of both acknowledging and criticising their work when necessary. It is true, however, that while the recommendation stated that such a system should be introduced, it did not make it compulsory. Therefore, the fact that such a system has not been put in place does not jeopardise the full implementation of the recommendation.
34. GRECO concludes that recommendation vi has been implemented satisfactorily.

## **Recommendation vii**

35. *GRECO recommended that steps be taken to introduce harmonised management of the courts that meets the need for transparency and limits the risks for the general integrity of judges.*
36. GRECO points out that this recommendation was partly implemented following the revision of the chapter in the Constitution on the justice system which had been approved in a first vote in the Chamber of Deputies and was in line with the recommendations regarding judges and prosecutors.
37. The Luxembourg authorities state that provisions have been introduced to ensure more harmonious, objective and transparent management of the courts. Under the new amendments to the Law of 7 March 1980 on the organisation of the courts, the heads of each professional category (President of Court, Principal State Prosecutor or Chief Magistrate) must send the National Judicial Council and the Minister of Justice an annual activity report on the work of their section during the previous judicial year, with statistics on the number of cases pending, adjudicated cases and the length of judicial proceedings. These activity reports are then made public. Similar provisions are laid down for the administrative courts by the amended Law of 7 November 1996 on the organisation of the administrative courts. Both of these laws were modified by the Law of 23 January 2023 introducing regulations for members of the judiciary.
38. The heads of the various judicial categories are publicly accountable for the management of their sections and any member of the public, judge or prosecutor may lodge a complaint in this respect with the National Judicial Council. This enables the Council, if necessary, to remind the heads of their duties, without having to initiate disciplinary proceedings. An appraisal of their management of the relevant bodies is also carried out when a member of the judiciary applies for a promotion or requests a transfer to another position, as explained in the section on recommendation vi above.
39. The National Judicial Council, recently established by the Law of 23 January 2023, is responsible for ensuring the proper functioning of the judiciary while respecting its independence. It has an advisory role and may make recommendations to the heads of the judiciary and to the Ministry of Justice with a view to improving the functioning of the justice system or the management of the courts.
40. Under the Law of 23 January 2023 introducing regulations for members of the judiciary, in-service training is now mandatory and forms an essential part of careers. The head of the relevant judicial body and the National Judicial Council ensure that the various categories of judges and prosecutors receive consistent in-service training, including courses on administration and day-to-day staff management.
41. A harmonised law enforcement policy also contributes to more objective administration of justice. In this respect, the Law of 23 January 2023 amended several legal instruments, including the Code of Criminal Procedure and the Law on the organisation of the courts. The Minister of Justice may issue criminal policy guidelines to the Principal State Prosecutor, following a decision of the Government Council. The Principal State Prosecutor is responsible for co-ordinating the work of prosecutors in the prevention and punishment of criminal offences and for the implementation of the prosecution policy by the various branches of the Public Prosecution Service. In accordance with these provisions, the Prosecution Service has drawn up written circulars applicable to all prosecutors under its authority in order to control the procedure and penalties applicable to each type of offence.

42. As regards limiting the risks for the general integrity of judges, the authorities refer to the powers of the National Judicial Council in matters of ethical conduct and discipline. The new body will adopt a three-pronged approach by drawing up rules of conduct, monitoring compliance with these rules and issuing opinions.
43. The rules of conduct are set out in the Digest of professional standards for members of the judiciary of 16 May 2013. The disciplinary rules have been revised by the Law introducing regulations for members of the judiciary. In particular, it defines what constitutes a disciplinary offence. The National Council of Justice decides whether to initiate disciplinary proceedings against members of the judiciary. Disciplinary proceedings are referred in the first instance to a disciplinary tribunal and, on appeal, to a disciplinary court. Both tribunals have been specifically set up for this purpose by the new law. Lastly, under Article 19, any member of the judiciary may refer a matter of professional conduct to the Council for an opinion.
44. GRECO takes note of the information provided. It considers that the conditions are in place for the newly established National Judicial Council to play a pivotal role in ensuring more harmonised, objective and transparent management of the courts. It may make recommendations on the functioning of the justice system and court management and may be consulted by members of the judiciary and even by members of the public. It also has powers in the area of the professional conduct of members of the judiciary, with the authority to lay down rules and to monitor their application. The Council must now take up these various tasks in order to work towards greater harmonisation. GRECO also welcomes the introduction of public annual activity reports for courts and prosecutors' offices. These reports, providing detailed statistics, describing problems encountered and making recommendations, should also contribute to more transparent administration of the courts. Lastly, GRECO takes note of the new provisions on the in-service training of members of the judiciary and the new guidelines on criminal prosecution, which are also in line with the recommendation.
45. GRECO considers that recommendation vii has been implemented satisfactorily.

#### **Recommendation ix**

46. *GRECO recommended that it be clarified which of the provisions of the General Civil Service Regulations – on management of conflicts of interest or other matters relevant for the purposes of preventing corruption – are in force at present and in respect of which categories of justice posts, with a view to enforcing the applicable clauses of the regulations.*
47. GRECO points out that this recommendation was partly implemented following the revision of the chapter in the Constitution on the justice system which had been approved in a first vote in the Chamber of Deputies and was in line with the recommendations on judges and prosecutors.
48. The Luxembourg authorities explain that Article 69 of the Law of 23 January 2023 clarifies Article 1, paragraph 2, subparagraph 1 of the amended Law of 16 April 1979 laying down the General Civil Service Regulations, in order to expressly state that these regulations apply to members of the judiciary, to judicial assistants (*attachés de justice*) and to court staff with civil servant status, subject to the specific provisions set out in the laws introducing regulations for the judiciary and on the various courts, in particular as regards appointment and various other career-related aspects.



49. Consequently, Articles 10, 14, 15 and 17 of the Regulations now apply to all members of the judiciary. Article 10 concerns the dignity of the office and the prohibition on seeking or accepting any advantage that might bring an official into conflict with his or her legal or regulatory obligations. Article 14 deals with secondary activities, Article 15 with the obligation to report conflicts of interest to one's hierarchical superior and Article 17 with the incompatibility of being a civil servant with being a member of parliament.
50. GRECO notes with satisfaction that Article 69 of the Law of 23 January 2023 clarified the provisions of the General Civil Service Regulations applicable to members of the judiciary, judicial assistants and court staff. This fulfils the requirements of the recommendation.
51. GRECO concludes that recommendation ix has been implemented satisfactorily.

### **Recommendation x**

52. *GRECO recommended that the rules on incompatibilities and secondary activities be clarified and made more coherent in respect of all persons required to sit as judges or act as prosecutors.*
53. GRECO points out that this recommendation was partly implemented following the revision of the chapter in the Constitution on the justice system which had been approved in a first vote in the Chamber of Deputies and was in line with the recommendations regarding judges and prosecutors.
54. The Luxembourg authorities refer to the information provided in response to recommendation ix above. Under Article 69 of the Law of 23 January 2023, all members of the judiciary are now subject to the General Civil Service Regulations, including the rules on incompatibilities and secondary activities. According to Article 14 of the regulations, civil servants are prohibited from holding, either directly or through third parties, any interest in an undertaking overseen by or having a direct relationship with their administrative department or service, if such interest could pose a threat to their independence.
55. Any paid secondary activity in the private sector must be authorised by the Government Council. This also applies to real estate activities. Scientific research, the publication of books or articles, participation in the arts and trade union activities are not subject to prior authorisation. Civil servants may not engage in any paid secondary activity in the national or international public sector that has not been assigned or authorised by the Government Council. Civil servants may not simultaneously carry out two or more secondary activities, unless this is in the interest of the public service. Decisions authorising secondary activities may be revoked and a declaration of secondary activities must be made every year. Non-remunerated activities do not have to be declared, as long as they do not affect the independence, integrity and impartiality of the members of the judiciary, as specified in the Code of ethics.
56. No activity may be undertaken or authorised if it cannot be reconciled with the conscientious and complete exercise of the duties of the office or if it is incompatible, *de jure* or *de facto*, with the authority, independence or dignity of the official.
57. Civil servants must also declare the professional activities of their spouses, except those carried out in the service of the State. In the event of incompatibility with official duties, the appointing authority decides whether to retain officials in their post, transfer them or remove them from office. These provisions supplement those of the specific law of 7 March 1980 (see next paragraph) and cover cases where a

member of the judiciary wishes to engage in a paid activity that is compatible with his or her duties.

58. In addition, the amended Law of 7 March 1980 on the organisation of the courts lays down rules on incompatibilities and secondary activities applicable to all members of the judiciary, including public prosecutors. This law prohibits holding more than one judicial office (Article 99). Judicial office is incompatible with being a member of parliament, any public or private salaried activity, the office of notary or bailiff, military service, ecclesiastical office and the profession of lawyer (Article 100). Members of the judiciary may not be mayors, aldermen or municipal councillors (Article 101). The law introducing regulations for members of the judiciary also stipulates that the functions of judge and public prosecutor are incompatible with membership of the Council of State (Article 101, paragraph 1). Members of the judiciary may plead their own cases and those of their spouses, partners and relatives in the direct line, by blood or by marriage. They may not act as defence counsel or provide legal advice to other persons (Article 102). Lastly, no member of the judiciary may, either personally or through a spouse or any proxy, engage in any business venture, brokerage, or in the management, board or supervisory board of any industrial or financial company or establishment (Article 104).
59. GRECO notes that the recommendation was made in response to problems in identifying the rules applicable to certain categories of court staff, such as judicial assistants, who may sometimes be required to sit as judges or to represent the prosecution. The members of the social security courts did not appear to be subject to any rules in this respect.
60. GRECO welcomes the clarification provided by the Law of 23 January 2023, according to which all members of the judiciary are henceforth subject to the General Civil Service Regulations with regard to incompatibilities and secondary activities, in the absence of more precise rules laid down in specific laws. It would therefore appear that, given the absence of such specific rules, judicial assistants and members of the social security courts are now covered by the regulations.
61. GRECO concludes that recommendation x has been implemented satisfactorily.

### **Recommendation xiii**

62. *GRECO recommended that the planned introduction of arrangements for ensuring greater independence and objectivity of the prosecution service's decisions be completed.*
63. GRECO points out that this recommendation was partly implemented following the revision of the chapter in the Constitution on the justice system which had been approved in a first vote in the Chamber of Deputies and was in line with the recommendations regarding judges and prosecutors.
64. The Luxembourg authorities report, as discussed above, that Chapter VI of the Constitution on the justice system was approved by a second vote in the Chamber of Deputies on 21 December 2022 and enshrined in the Law of 17 January 2023, which entered into force on 1 July 2023.
65. Article 87, paragraph 2 of the Law specifically states that the Public Prosecution Service is "independent in conducting individual investigations and prosecutions, without prejudice to the government's right to issue criminal policy guidelines". No one may therefore intervene in individual cases, as the public prosecutor remains fully independent. No hierarchical superior of any kind is able to interfere in the criminal justice process, as the public prosecutor remains independent, has the right

to initiate proceedings and alone decides in each case on the measures to be taken on a specific matter.

66. The independence and the objectivity of the decisions taken by members of the Public Prosecution Service are also reflected in the Law of 23 January 2023 setting up the National Judicial Council, which stipulates that appointments, promotions, ethical conduct, training and even disciplinary measures are the sole responsibility of the National Judicial Council, a body that is independent of any other power, including the political authorities. This means that, by law, prosecutors are completely independent in the acts they perform in the course of their duties and that the objectivity of their decisions is guaranteed.
67. Article 16 of the Law on the National Judicial Council provides that the Council shall ensure the proper functioning of the justice system while respecting its independence. Accordingly, any citizen may lodge a complaint about the administration of justice (Article 18), including with regard to the lack of objectivity of prosecutorial decisions. Circulars and memos have also been sent out to the various offices of the Prosecution Service setting out working methods and the procedures for the prosecution of each type of offence. A non-objective decision can easily be detected and a complaint lodged with the National Judicial Council.
68. The independence of the Public Prosecution Service is also enshrined in the amendments to the amended Law of 7 March 1980 on the organisation of the courts, which reaffirms the principle that the Minister of Justice may issue guidelines on criminal policy, adopted by the Government Council, to the Principal State Prosecutor (Article 19). The role of the Principal State Prosecutor is to co-ordinate the work of the State prosecutors (Article 18). Prosecutors are required to make written submissions in accordance with the instructions given to them by their superiors, but they are at liberty to make such oral observations as they wish (Article 16, paragraph 2).
69. GRECO welcomes the fact that the independence of the Public Prosecution Service has been enshrined in law by the constitutional revision, the Laws of 23 January 2023 and the amendments to the Law on the organisation of the courts. All aspects of prosecutors' careers are now subject to the supervision of a fully independent National Judicial Council. As for the criminal policy guidelines adopted by the Government Council, they harmonise prosecutions while clearly prohibiting any interference in individual cases. The transmission of these instructions through the chain of command allows for the co-ordination of prosecutions. Any citizen may now appeal to the National Judicial Council against any decision that lacks objectivity. GRECO considers that all these provisions taken together fully satisfy the requirements of the recommendation.
70. GRECO concludes that recommendation xiii has been implemented satisfactorily.

#### **Recommendation xiv**

71. *GRECO recommended that i) the future collegial body for the judiciary be involved in supervision and in disciplinary decisions concerning prosecutors; ii) that the disciplinary arrangements applicable to prosecutors, including the applicable sanctions, be defined more clearly.*
72. GRECO points out that this recommendation was partly implemented following the revision of the chapter in the Constitution on the justice system which had been approved in a first vote in the Chamber of Deputies and was in line with the recommendations regarding judges and prosecutors.

73. The Luxembourg authorities point out that Article 1 of the Law of 23 January 2023 introducing regulations for members of the judiciary states that “[t]his Law shall apply to members of the judiciary, whether they are judges or prosecutors, and to administrative judges”. The provisions of the law are therefore identical for both judges and prosecutors.
74. The law deals with and lays down the rules for public prosecutors in terms of appointment, promotion, in-service training, ethics and disciplinary procedures. All aspects are covered.
75. With regard to discipline, the law clearly and precisely sets out the rules for:
- disciplinary offences and sanctions (Section 1)
  - suspension (Section 2)
  - disciplinary tribunals (Section 3)
  - the initiation of disciplinary proceedings (Section 4)
  - the investigation of disciplinary cases (Section 5)
  - the adjudication of disciplinary cases (Section 6).
76. According to Article 21, a “*disciplinary offence shall be any act committed by a member of the judiciary in the exercise of or outside the exercise of their duties by which:*
- 1) *the member of the judiciary may compromise the serving of justice;*
  - 2) *the member of the judiciary fails to fulfil the duties of the office, namely, to maintain independence, impartiality, integrity, probity, loyalty, conscientiousness, dignity, honour, respect, consideration for others, restraint and discretion, as required by the rules of professional conduct for members of the judiciary;*
  - 3) *the member of the judiciary seriously and deliberately breaks a procedural rule which constitutes an essential guarantee of the parties’ rights, as established by a final court decision”.*
77. Disciplinary sanctions are provided for in Article 22:
- 1) *a warning;*
  - 2) *a reprimand;*
  - 3) *a fine of not less than one-tenth of one month’s gross basic salary and not more than one month’s gross basic salary, which may be collected by means of a non-appealable payment order issued by the Collector of the Registration Duties, Estates and VAT Authority;*
  - 4) *downgrading, which consists of placing the member of the judiciary in the grade immediately below his/her former grade prior to demotion or in the grade preceding the grade immediately below. The grade and salary step in which the member of the judiciary is placed shall be determined by the disciplinary court, whose decision must result in the new salary being lower than the salary before the disciplinary sanction. The demoted member of the judiciary is appointed to a special career bracket;*
  - 5) *temporary exclusion from duties, which may be ordered for a period of up to two years, with or without partial or total withholding of pay. The period of exclusion does not count towards periods of service for the purposes of two-yearly salary increments, pay rises and pensions;*
  - 6) *compulsory retirement;*
  - 7) *dismissal: the sanction entails the loss of the official’s employment, title and pension rights, without prejudice to entitlement arising from the retroactive insurance associated with the co-ordination of pension schemes”.*
78. The disciplinary procedure is set out in detail in Articles 21 to 53 of the law. It is carried out under the aegis of the National Judicial Council, which is the body

responsible for disciplinary matters involving members of the judiciary, including prosecutors. It initiates disciplinary proceedings. The disciplinary bodies are a disciplinary tribunal of first instance and a disciplinary court of appeal, which were created specifically for this purpose by the new law.

79. GRECO notes with satisfaction that the National Judicial Council is now the body responsible for ensuring that prosecutors comply with their obligations and for taking disciplinary action where necessary. This meets the requirements of the first part of the recommendation. The disciplinary arrangements and sanctions applicable to prosecutors were also defined more clearly by the new Law of 23 January 2023, as required by the second part of the recommendation.
80. GRECO concludes that recommendation xiv has been implemented satisfactorily.

### **III. CONCLUSIONS**

81. **In view of the conclusions set out in the previous Fourth Round Compliance Reports on Luxembourg and in the light of the above, GRECO concludes that Luxembourg has satisfactorily implemented 13 of the 14 recommendations contained in the Fourth Round Evaluation Report.** The remaining recommendation has been partly implemented.
82. More specifically, recommendations i, ii, iii, iv, vi, vii, viii, ix, x, xi, xii, xiii and xiv have been satisfactorily implemented. Recommendation v has been partly implemented.
83. With regard to members of parliament, a Code of Conduct relating to financial interests and conflicts of interest for the members of the Chamber of Deputies was adopted as far back as 2014 and was complemented on 11 October 2023 by an illustrative Practical Guide. The system for members of parliament to declare their assets and interests was further developed and the rules on gifts and other benefits were made more coherent. Rules were also introduced regarding members' relations with third parties who may seek to influence their work. In July 2014, a new monitoring and sanctions mechanism was introduced to ensure compliance with the various provisions of the Code of Conduct. However, GRECO considers that the measures taken are insufficient, in particular because the accuracy of declarations is not verified, and no details have been provided on the means of parliamentary control.
84. As regards judges and prosecutors, GRECO welcomes the implementation of all its recommendations. Following the reform of Chapter VI of the Constitution and the laws of 23 January 2023 on the National Judicial Council and introducing regulations for members of the judiciary, the procedures for the promotion of the various categories of members of the judiciary have been made more transparent and objective. Steps have been taken to ensure more harmonised and transparent management of the courts. The status of the various rules on recusal applicable to members of the courts have been clarified, as has the application of the General Civil Service Regulations to all members of the judiciary, in the absence of specific provisions laid down in other legislation. Information on disciplinary procedures and sanctions against members of the judiciary is now kept and training for members of the judiciary has been stepped up. The independence of the Public Prosecution Service and its members has been enshrined in law and the objectivity of decisions has been improved. Lastly, the disciplinary arrangements, under the aegis of the National Judicial Council, and the sanctions applicable to prosecutors have been defined more clearly.

85. The adoption of this Addendum to the Second Compliance Report terminates the Fourth Round compliance procedure in respect of Luxembourg. However, GRECO invites the Luxembourg authorities to keep GRECO informed of any future progress in the implementation of the outstanding recommendation.
86. GRECO also invites the Luxembourg authorities to authorise publication of this report as soon as possible.