

Adoption: 3 December 2021
Publication: 7 January 2022

Public
GrecoRC5(2021)12

FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

COMPLIANCE REPORT

FRANCE



Adopted by GRECO
at its 89th plenary meeting (Strasbourg, 29 November-3 December 2021)



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

I. INTRODUCTION

1. The fifth GRECO evaluation round concerns “Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies”.
2. This Compliance Report assesses the measures taken by the French authorities to implement the recommendations made in the Fifth Round Evaluation Report on France which was adopted by GRECO at its 84th plenary meeting (2-6 December 2019) and made public on 9 January 2020, following authorisation by France ([GrecoEval5Rep\(2019\)2](#)).
3. As required by GRECO’s Rules of Procedure,¹ the French authorities submitted a Situation Report containing information on measures taken to implement the recommendations in the Evaluation Report. That report was received on 1 July 2021 and served as a basis for this report.
4. GRECO selected Belgium (in respect of top executive functions in central governments) and the Republic of Moldova (in respect of law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed – Mr Ricardo PARRONDO RAMOS for Belgium and Ms Cristina LESNIC for the Republic of Moldova – were assisted by the GRECO Secretariat in drawing up this report.
5. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and gives an overall appraisal of the level of the member’s compliance with these recommendations. The implementation of any outstanding recommendations (partly or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after this Compliance Report is adopted.

II. ANALYSIS

6. GRECO made 18 recommendations to France in its Evaluation Report. Compliance with these recommendations is dealt with below.

Preventing corruption and promoting integrity in central governments (top executive functions)

Recommendation i.

7. *GRECO recommended that the requirement of prior integrity checks for all posts of adviser to the Government or the President of the Republic, carried out as part of the selection process and with the support of the High Authority for Transparency in Public Life, be provided for by law.*
8. The French authorities state that one of the aims of Law No. 2019-828 of 6 August 2019 on transformation of the public service was to strengthen ethics vetting of those who are most exposed to ethical risks, including members of ministers’ private offices and

¹ The compliance procedure for the Fifth Evaluation Round is governed by GRECO’s Rules of Procedure as amended. See Rule 31 revised bis and Rule 32 revised bis.

staff of the President of the Republic, and make it more effective. A new pre-appointment ethics vetting process has been in force since 1 February 2020 and applies to all persons who have worked in the private sector over the previous three years and who wish to be appointed to certain exposed public posts. This vetting is carried out by the High Authority for Transparency in Public Life (HATVP) notably in respect of members of ministers' private offices and staff of the President of the Republic. The authority within which the post exists is obliged to refer the matter to the HATVP before deciding whether to appoint the candidate. This is a necessary recruitment formality which, if not completed, would result in cancellation of the appointment.

9. As part of its vetting, the HATVP considers whether the private-sector work undertaken by the person being considered for appointment could compromise or call into question the proper running, independence or neutrality of the department, breach the principles of impartiality, integrity and probity or put the person concerned in a position where they would commit the offence of benefiting from a conflict of interest. It can issue an opinion of compatibility, an opinion with a reservation (requesting that steps be taken by the person concerned and by the authority within which the post exists in order to avoid any conflict of interest once they have been appointed), or an opinion of incompatibility. Its opinions must be obeyed by the authority, and any breach can result in cancellation of the appointment. The HATVP issued 220 opinions on pre-appointment vetting processes in 2020; 57.9% were opinions of compatibility, 41.6% were opinions with reservations and 0.5% were opinions of incompatibility.
10. GRECO welcomes the fact that appointments of members of ministers' private offices and staff of the President of the Republic who have worked in the private sector over the previous three years are now subject to prior vetting by the HATVP of the relevant candidates' integrity. The HATVP's opinion must be complied with, otherwise the appointment is cancelled. This concerns the most sensitive appointments, but GRECO considers nevertheless that some form of control should be undertaken before the appointment as adviser of all persons foreseen for such a post, as required by the recommendation.
11. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

12. *GRECO recommended that the multi-annual plan for the fight against corruption be extended to cover the Private Office of the President of the Republic.*
13. The French authorities state that in formal terms, the National Multi-annual Plan for the Fight Against Corruption (PNPLC) was adopted before the Evaluation Report, which meant that no substantial changes could be added. Furthermore, this plan applied in ministries with which the Private Office of the President of the Republic could not be equated in institutional terms.
14. The French authorities indicate that the offices of the Presidency have undergone a major reorganisation, as highlighted by the Court of Audit in a 2020 report. According to them, this modernisation process pursues aims comparable to those pursued by the PNPLC, including strengthening and expanding internal control, professionalising the

“procurement” function through an ethics guide for public procurement, as well as a procurement committee and framework agreements and developing a role as an adviser to user departments.

15. They also state that the offices of the Presidency have asked the French Anti-Corruption Agency (AFA) to carry out a diagnostic assessment comparable to the one carried out for ministries with regard to measures and good practice in preventing breaches of integrity. This diagnostic assessment must in particular cover breaches of integrity identified or committed by officials working for offices of the Presidency between 2014 and 2018, bodies and tools contributing to the prevention of breaches of integrity, and the implementation of the French anti-corruption framework. This diagnostic assessment is currently under way.
16. GRECO takes note of the formal argument put forward by the authorities that adding the offices of the Presidency to the PNPLC was difficult after the plan’s adoption as well as from an institutional point of view. It is mindful of the efforts that are being made to strengthen internal control within the offices of the Presidency, on the one hand, and through the diagnostic assessment currently being carried out by the AFA in order to identify measures and good practice in preventing breaches of integrity, on the other.
17. However, GRECO notes that this does not amount to a global approach as required by the recommendation (see Evaluation Report, para. 50) and highlights the importance of strategic documents, such as action plans, not only in terms of structuring prevention activity (by setting precise targets to be achieved in set time frames and initiating follow-up) but also in terms of sending out a clear signal to the public. This was the purpose of this recommendation. In view of the aforementioned initiatives but also this latter point, GRECO considers that this recommendation can only be deemed dealt with partly.
18. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

19. *GRECO recommended that the French Anti-Corruption Agency and the High Authority for Transparency in Public Life strengthen their co-operation in their work pertaining to persons holding top executive functions.*
20. The French authorities state that a co-operation agreement between the AFA and the HATVP was signed at the end of 2019. They can share their planning and co-ordinate their awareness-raising and training activities aimed at, *inter alia*, persons holding elected offices and senior civil service positions and students at public service training establishments. In addition, the head of the HATVP can ask the director of the AFA to carry out checks on the quality and effectiveness of anti-corruption procedures implemented within State authorities. The AFA and the HATVP have worked together in the context of an online course on “co-operation, favouritism, misappropriation... how to prevent them in local public administration”, during training organised by the AFA and the National Legal Service Training College (ENM) and in connection with the public consultation launched by the AFA in order to update its recommendations to help public and private entities to prevent and detect corruption.

21. GRECO notes with satisfaction the co-operation agreement signed by the AFA and the HATVP, which heralds closer co-operation between the two institutions. However, the goal of its recommendation was to strengthen co-operation between the two institutions specifically in relation to PTEFs. According to the information received to date, no co-ordination efforts have been made in relation to this issue for the time being. GRECO thus considers the aim of the recommendation partly achieved.
22. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

23. *GRECO recommended (i) the adoption of codes of conduct for each ministry containing rules common to all PTEFs in government that cover all integrity matters (preventing and managing conflicts of interest, declaration requirements, incompatibilities, gifts, post-employment restrictions, contacts with lobbies, and confidential information, etc.), including practical examples, and being made public; (ii) the finalisation of the revision of the Ethics Charter of the Presidency, making sure that it covers the relevant above-mentioned integrity matters and includes practical examples to illustrate each standard; (iii) the introduction of checks on compliance with the codes, together with proportionate disciplinary measures.*
24. The French authorities state, regarding part (i) of the recommendation, that ministries are in the process of adopting codes of conduct in association with the AFA. In line with the AFA's recommendations, authorities, including ministries, are invited to adopt a code of conduct following mapping of the risks of breaches of integrity. These codes of conduct are to apply to all personnel and managers of the public entity. They must be backed up by relevant illustrations that take account of the risks specific to each sector. Among other things, they must deal with gifts and invitations, conflicts of interest, rules governing the use of the department's property, representation expenses, etc. Some codes have already been adopted (Code for the Prevention of Breaches of Integrity of the Ministry of the Armed Forces, which was drawn up in 2019-2020) or updated (Code of Conduct of the Ministry for Europe and Foreign Affairs). Ministries can receive assistance from the AFA in designing their codes. Meetings attended by all ministries are held at regular intervals in order to discuss topical issues in this field. A digital discussion forum has been created to enable persons responsible for these issues within ministries to discuss all aspects of integrity and to initiate group analysis of specific issues.
25. As to part (ii) of the recommendation, the French authorities state that the process of updating the Ethics Charter of the Presidency should be completed in 2021 and the updated Charter should be submitted for opinion to the HATVP before it enters into force. Similar documents existing in the public sphere have been examined with the aim of adding to certain parts of the Charter and making it more practical.
26. As to part (iii) of the recommendation, the French authorities state that breaches of ethical obligations constitute professional misconduct which is punishable under civil service law by a disciplinary measure proportionate to the seriousness of the breach (admonishment/reprimand, temporary removal, demotion, dismissal). It is the authority that considers, subject to the administrative court's oversight, whether a public servant's act or behaviour constitutes misconduct. With regard to breaches of anti-

corruption codes of conduct, the AFA states in its recommendations that “with regard to personnel subject to the General Civil Service Regulations, breaches of organisational measures of the department and its activity as provided for in the code of conduct may incur a disciplinary measure. Lastly, breaches of recommendations of the code of conduct that relate to staff regulations may also incur a disciplinary measure where they constitute a breach of the duties of probity and integrity”. While the provisions do not state what measures apply to specific types of misconduct, the disciplinary authority must nonetheless obey a rule of proportionality, subject to the administrative court’s oversight. The authorities also state that the most serious breaches of integrity by public servants are classed as criminal offences and can lead to criminal penalties as well as disciplinary measures.

27. GRECO notes, in respect of part (i) of the recommendation, that the process of adopting codes of conduct in each ministry is being supported by the AFA. It also notes that discussions have started between ministries on integrity matters. The authorities mention that two ministries now have updated codes of conduct. GRECO reiterates that these codes should cover all PTEFs. In view of the foregoing, it considers that this part of the recommendation has been partly implemented, even though much remains to be achieved before all ministries have their own code of conduct applicable to all PTEFs.
28. As to part (ii) of the recommendation, the authorities refer to the efforts that are still being made to revise the Ethics Charter of the Presidency. These efforts have not yet come to fruition and because GRECO has not been able to examine the contents of the revised Charter, it cannot regard the aim of this part of the recommendation as having been achieved, even in part.
29. As to part (iii) of the recommendation, GRECO takes note of the existing forms of disciplinary action for integrity breaches committed by public servants and the fact that the most serious acts are criminal offences. It underlines, on the one hand, that “the codes of conduct should expressly make reference to the sanctions incurred, either already in existing regulations or, if necessary, to be introduced” (Evaluation Report, para. 65) and, on the other, that this recommendation covers all PTEFs, beyond the sole category of public servants. This part of the recommendation has thus not been fulfilled.
30. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

31. *GRECO recommended that (i) awareness-raising on integrity issues be provided systematically for persons with top executive functions when they take office and when legislative developments so require; (ii) confidentiality of interviews with ethics advisers be provided for by law; (iii) ethics advisers be required to take specific training on addressing ethical issues referred to them.*
32. The French authorities state, regarding part (i) the recommendation, that PTEFs are in close contact with the HATVP, including when declarations of assets and interests are submitted to it. The HATVP regularly organises training specifically for persons holding top executive functions For example, a webinar on declaration obligations and post-employment rules was organised for members of private offices in anticipation of

changes linked to the presidential elections (16/9/2021, around 50 participants). The HATVP was also involved in 2021 in the development of two training platforms on integrity for staff of the Prime Minister's Office and for senior management posts (such as heads of department and deputy directors). It has also participated in a training session for ministries' secretaries general on integrity issues organised by the General Secretariat of Government (21/9/2021).

33. The authorities reiterate that the Law of 6 August 2019 on transformation of the public service extended the possibility of recruiting contractual staff to managerial posts within the administration. They are required to undertake ethics training. This training is currently being developed by the National Civil Service Training College (ENA) and is to cover all aspects of integrity (preventing and managing conflicts of interest, declaration requirements, incompatibilities, gifts, post-employment restrictions and confidential information). It will be open to all persons appointed to managerial posts, including those who have the status of civil servants, to enable them to update their knowledge (the latter have completed ethics training as part of their initial training). In addition, the AFA's recommendations include "training the governing body, elected representatives and their staff, managers and personnel who are most exposed".
34. As to part (ii) of the recommendation, the French authorities state that Article 7 of Decree No. 2017-519 of 10 April 2017 on ethics advisers in the civil service already provides that discussions with ethics advisers are confidential.
35. As to part (iii) of the recommendation, the French authorities state that in order to strengthen the fostering of an ethical culture and ensure uniformity of interpretation, a network of State ethics advisers has been created, and its first meeting took place at the end of 2019. The network has since met on four further occasions. The HATVP participates in this network of ethics advisers and held meetings of ethics advisers in 2018 and 2019. It has also published two guides aimed at ethics advisers, which give them tools to identify and prevent conflicts of interest.
36. GRECO considers, regarding part (i) of the recommendation, that contacts with the HATVP when PTEFs file their declarations of interests and assets cannot be regarded as increased awareness-raising on a more structured and comprehensive basis (Evaluation Report, para. 71). It notes the participation of the HATVP in different awareness initiatives for private office members and senior civil servants, which is positive, but does not amount to systematic awareness-raising for all PTEFs, ministers included, as required by the recommendation. At the same time, it welcomes the future introduction of compulsory training covering integrity matters for members of private offices who do not have civil servant status. The obligation to undertake this training could be extended to civil servants who hold high-ranking offices within the Executive; this training is open to them but not compulsory at present. Furthermore, GRECO points out that "some form of awareness-raising should also be introduced for the President of the Republic upon taking office, in particular regarding the management of his/her interests so as to avoid any risks of conflicts in the exercise of his/her duties" (ibid.). It can for the moment consider this part of the recommendation only partly implemented.
37. As to part (ii) of the recommendation, the authorities now state that Decree No. 2017-519 provides that consultations of ethics advisers are confidential, which had not been

made clear previously. The Evaluation Report states that, according to the information obtained during the visit, this confidentiality rule was not sufficiently well known (para. 70). It therefore appears that making ethics advisers and beneficiaries aware that these consultations are confidential would be useful. Nevertheless, GRECO considers that this part of the recommendation has been dealt with in a satisfactory manner.

38. As to part (iii) of the recommendation, GRECO welcomes the fact that the network of ethics advisers meets regularly. It also notes the HATVP's commitment to supporting ethics advisers, including by publishing a guide providing tools enabling them to identify and prevent conflicts of interest more effectively. It therefore considers that this part of the recommendation has been implemented.

39. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

40. *GRECO recommended that (i) persons with top executive functions be required to disclose on a regular basis details of the lobbyists they meet and the topics discussed; (ii) all lobbyists who enter into contact with public officials (in particular, persons with top executive functions), regardless of whether they themselves initiated the contacts, be required to register on the register of lobbyists.*

41. The French authorities point out that the digital register of lobbyists referred to in Law No. 2016-1691 of 9 December 2016 on transparency, anti-corruption measures and the modernisation of economic life was created in 2017. According to them, the HATVP found in its 2019 report that the quality of submitted declarations had improved. As of 30 June 2021, 2 334 lobbyists were listed in it and they had declared more than 38 971 activities. The authorities state that there are no plans to develop the system in the short term. In relation to part (i) of the recommendation, they point out that under the current legislation, the obligation to declare contacts applies to lobbyists. They believe that requiring PTEFs publicly to disclose on a regular basis details of the lobbyists they meet and the topics discussed would place a significant burden on them without significantly increasing the transparency of lobbyists' activity. As for part (ii) of the recommendation, the authorities consider that requiring all persons who enter into contact with a public official to register on the register of lobbyists, even where they did not request the interview, could be a hindrance to relations between officials and civil society.

42. GRECO regrets that no steps have been taken to implement either part of its recommendation. The two parts of the recommendation complement one another and restore a balance between obligations for PTEFs and obligations for lobbyists in order to make these contacts significantly more transparent, particularly where they occur in a less formal setting than, for example, review committees (Evaluation Report, para. 80), and make it possible to ascertain what factors have gone into decision-making at the highest level. GRECO can only call on the French authorities to implement both parts of this recommendation in order to increase transparency surrounding contacts between PTEFs, including the President of the Republic, and lobbyists which can influence the decision-making process.

43. GRECO concludes that recommendation vi has not been implemented.

Recommendation vii.

44. *GRECO recommended that the register of withdrawals cover not only ministers but also members of private offices.*
45. The French authorities state that in addition to the HATVP carrying out pre-appointment vetting for some of them (see para. 8-10) and the submission of a declaration of interests after their appointment, members of private offices and offices of the Presidency have obligations to withdraw similar to those of Government members, who are listed in a register of withdrawals. There is a register of withdrawals for the Presidency. According to the authorities, adding withdrawals of members of private offices to the register of ministers would make the situation complicated given the number of people who could potentially be concerned (approximately 500).
46. GRECO notes the fact that registers of withdrawals exist for members of private offices and offices of the Presidency. The Evaluation Report welcomed the existence of a public register of withdrawals for ministers as a positive practice regarding transparency in the exercise of power, and underlined the importance of also making withdrawals of members of private offices public (Evaluation Report, para. 92). If registers of members of private offices and offices of the Presidency were also public, the fact that they exist separately would not prevent this recommendation from being considered implemented. That said, they do not appear to be public, so the recommendation has not been implemented fully.
47. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

48. *GRECO recommended that declarations of assets and interests of the presidential candidate who has been elected be examined by the High Authority for Transparency in Public Life upon his/her taking office in order to prevent any conflict of interest, real or perceived.*
49. The French authorities point out that presidential candidates are required to submit a declaration of interests and activities and a declaration of assets to the HATVP, which are made public. The President must submit a new declaration of before the end of his/her term of office, which is made public by the HATVP along with an assessment of the change in assets between the beginning and end of the term of office. No changes to these arrangements are planned before the next presidential election in 2022. Moreover, since the President of the Republic cannot withdraw from involvement in a matter in favour of another authority, checks carried out by an administrative authority on his/her declarations of interests or assets could only have a limited impact. They point out that the current President met the head of the HATVP on his own initiative.
50. GRECO takes note of the information provided by the French authorities while noting that it includes nothing that was not known when the Evaluation Report was adopted.
51. GRECO concludes that recommendation viii has not been implemented.

Recommendation ix.

52. *GRECO recommended (i) examining how to increase transparency concerning the interests declared by close advisers of ministers and the President of the Republic; (ii) considering extending the requirement for persons with top executive functions to make declarations of assets and interests to their spouses, partners and dependants (it being understood that such information would not necessarily need to be made public).*
53. The French authorities consider that the aim of preventing conflicts of interest with respect to advisers to members of the Government and staff of the President of the Republic is achieved through, *inter alia*, the checks carried out by the HATVP on the declarations of interests that they are obliged to submit within two months after being appointed. The Constitutional Council held that there was no direct connection between publication of declarations of interests of persons who do not hold elected or ministerial offices and the law's aim of strengthening guarantees of probity, integrity and preventing and tackling conflicts of interest, and this publication interfered to a disproportionate extent with the right to respect for private life of the persons concerned (decision No. 2013-676 DC). According to the authorities, publication of declarations of assets and interests must be based on the degree of the public official's exposure. Declarations made by persons who wield decision-making power and are entitled to express the Government's position in public, such as ministers or elected representatives, should not be subject to the same rules as persons who do not have decision-making authority or the right to express the Government's position in public, such as members of ministers' private offices and staff of the President of the Republic. Their advisory role does not warrant that declarations be published, regardless of the precautions taken to conceal the information that interferes with privacy the most.
54. With regard to part (ii) of the recommendation, increasing the amount of information to be declared for these spouses would amount to excessive encroachment on privacy. In addition, as the Constitutional Council held in its aforementioned decision, instituting an obligation to declare the work of dependent children and ascendants of the declarant would also cause disproportionate interference with the rule of respect for private life.
55. GRECO notes that, in relation to part (i) of the recommendation, the position of the authorities is identical to what it was when the Evaluation Report was adopted (para. 116). As a result, it cannot be said that the authorities have considered how to increase the transparency of declarations of close advisers to ministers and the President of the Republic since the report's adoption.
56. As for part (ii) of the recommendation, the authorities do not provide new arguments regarding the inclusion of spouses, partners, children and any dependants of PTEFs in their declarations of assets and interests. Therefore, there does appear to have been a re-examination of this issue since the Evaluation Report's adoption. GRECO underlines that this was a matter not of disclosure but of checking in order to avoid any conflicts of interest through PTEFs' relatives.
57. GRECO concludes that recommendation ix has not been implemented.

Recommendation x.

58. *GRECO recommended that the High Authority for Transparency in Public Life be able to make public as a last resort any failure of the Prime Minister to end a conflict of interest.*
59. The French authorities reiterate that the Prime Minister is subject to Article 1 of Law No. 2013-907 of 11 October 2013 on transparency of public life, which provides that s/he must make sure that any conflict of interest is prevented or ended immediately. Furthermore, the PM must file a declaration of interests within two months after being appointed. This declaration is made public and the HATVP can publish it together with any assessment that it deems useful as to its exhaustiveness, accuracy and honesty. Where it finds that the PM is in a conflict of interest or has failed to honour his/her obligation to end any conflict of interest, the HATVP informs the President of the Republic. The ways in which conflicts of interest are ended are laid down in Decree No. 59-178 of 22 January 1959 on ministers' powers, as amended in 2014. It provides that where s/he believes s/he is in a conflict of interest with respect to the exercise of some of his/her powers, the PM must delegate them to the minister who is named first in the decree concerning the composition of the Government. The authorities believe that these provisions strike a balance between the aim of preventing conflicts of interest and that of preserving the basis on which the Prime Minister discharges his/her duties.
60. GRECO refers to the Evaluation Report, which took note "of the exception under which, unlike the situation regarding ministers, the HATVP cannot order the PM to end a conflict of interest" and "the HATVP should be able to make public, as a last resort, situations where the PM fails to prevent a conflict of interest revealed by his/her interest declaration" (para. 126). GRECO considers that this would contribute to greater transparency in the handling of conflicts of interest by the Prime Minister.
61. GRECO concludes that recommendation x has not been implemented.

Recommendation xi.

62. *GRECO recommended that, with regard to acts of corruption relating to the performance of their duties, government members be brought before a court that ensures total independence and impartiality, both real and perceived.*
63. The French authorities state that on 4 March 2021, the Court of Justice of the Republic sentenced a former defence minister to two years' imprisonment suspended, and a fine of 100 000 euros for offences of aiding and abetting misuse of a company's property which had been committed in 1995. According to them, this shows that the sentences handed down by this court cannot be viewed as lenient. The authorities also reiterate that a draft constitutional reform for a renewal of democracy, which was submitted on 29 August 2019, provides that members of the Government who are prosecuted for misdemeanours or crimes committed in the course of their duties shall be tried by three professional judges at Paris Court of Appeal.
64. GRECO notes from the information provided by the authorities that the situation has not changed since the adoption of its Evaluation Report to which it makes reference (para. 134) and thus the aim of the recommendation has not been addressed.

65. GRECO concludes that recommendation xi has not been implemented.

Recommendation xii.

66. *GRECO recommended that the National Financial Prosecution Office be provided with additional resources, specifically in terms of staff, and that its independence from the Executive be ensured, in particular through additional guarantees on the reporting to the Executive of information concerning ongoing proceedings against persons with top executive functions in order to preserve the integrity of investigations.*
67. The French authorities point out that the number of employees of the National Financial Prosecution Office (PNF) has been regularly increased since its establishment in 2014. The number of prosecutors rose from 15 in 2015 to 18 in 2021, and there are also six specialised assistants and one assistant legal expert. They also reiterate that the reporting of information from the PNF to the Executive is considered essential for implementing and setting the Government's criminal justice policy, as this enables it to shape and set out a proactive anti-corruption policy. They add that in a dispatch of 3 March 2021 concerning the reporting of information from principal State prosecutor's offices to the Directorate for Criminal Matters and Pardons (DACG) of the Ministry of Justice, the DACG reassessed the precise scope of upward reporting with the aim of gearing it towards qualitative analysis and making it easier to identify the more general difficulties raised by the proceedings or the criminal conduct of which the disclosed acts form part. According to the authorities, the reporting of information has been tackled globally as it has always the potential of being sensitive. In an opinion of 15 September 2020, the High Judicial Council (CSM) deemed it necessary for information to be reported from the Minister of Justice in certain individual cases so that it could perform its institutional functions. In the same opinion, in relation to a highly sensitive PNF case, the CSM stated that no pressure appeared to have been put on PNF prosecutors by the Minister of Justice, nor did there appear to have been any requests to report information to an extent substantially exceeding normal practice.
68. The authorities underline that despite the sensitive nature of the cases it monitors, the guarantees of independence that apply to the PNF enable it to perform its functions independently. While giving evidence to a parliamentary committee of inquiry about obstacles to the independence of the judiciary, prosecutors and principal State prosecutors and the former and current State financial prosecutors stated that they had never personally experienced or become aware of any pressure from the Executive, they had never received any instructions in a particular case, and they had only ever reported to the Ministry of Justice information that could not have had any bearing on pending investigations. They are said to have expressed support for the principle that reporting is necessary to implement criminal justice policy and that it should be organised and managed in such a way as to ensure its traceability and the transparency of the process. The authorities add that the Constitutional Council recently held that the provisions on the reporting of information "pursue the sole objective of making it possible for the Minister of Justice, who is responsible for leading the criminal justice policy of the Government, to have reliable and exhaustive information on the functioning of justice".²

² Decision No. 2021-927 QPC of 14 September 2021.

69. GRECO notes, concerning part (i) of the recommendation, that with regard to the PNF's resources, there does not appear to have been changes since the adoption of the Evaluation Report - it already mentioned 18 prosecutors and six specialised assistants. It also notes that, when the Evaluation Report was adopted, the PNF was dealing with more than 500 cases. Thus, GRECO finds this part of the recommendation still relevant.
70. As for the reporting of information from the PNF to the Minister of Justice, GRECO points out that its recommendation does not call the system itself into question and that the Evaluation Report focuses on the need for additional guarantees for PNF cases that concern PTEFs, which are inevitably more politically sensitive. While it welcomes the publication of a dispatch from the Ministry of Justice which is intended to govern all reporting of information more generally, it must be noted that the issue of reporting in cases concerning PTEFs in particular, to which this recommendation relates, has not been examined specifically.
71. GRECO concludes that recommendation xii has not been implemented.

Preventing corruption and promoting integrity in law enforcement agencies

72. The French authorities state that the General Director of the National Police has asked the Head of the General Inspection of the National Police (IGPN) to lead a working group so as to implement satisfactorily as soon as possible the following recommendations.

Recommendation xiii.

73. *GRECO recommended the adoption of a global strategy focusing on the prevention of corruption risks within law enforcement agencies on the basis of risk assessments and the most vulnerable sectors as drawn up by the National Gendarmerie and the National Police.*
74. The French authorities state, in relation to the National Police, that the AMARIS ("Improving Operational and Risk Management") office of the National Police Inspectorate General (IGPN), is responsible for overall risk prevention strategy. Based on its risk map, each department identifies actions to manage the most critical risks. Each department carries out an annual risk review and updates its map, and reviews the plan of actions to be undertaken. In 2022, the AMARIS office will list a 65th risk specifically concerning corruption in the list of risks faced by the police. The authorities add that adopting a global strategy on corruption risk prevention could be considered to give even greater visibility to the corruption risk analysis and management process.
75. With regard to the National Gendarmerie, the French authorities state that a reflection process has been ongoing within the National Gendarmerie Inspectorate General (IGGN) in 2021 with a view to the creation of a risk map relating specifically to ethics. Following further risk mapping, there will be further discussion, an action plan will be implemented from September 2021 onwards, a monitoring and follow-up mechanism will then be established, and the entire mechanism will be made permanent through a reporting plan. "Lack of integrity and probity" is among the 20 ethical risks that make up this map, but it has not been identified as one of the nine major areas of weakness in terms of ethics for the National Gendarmerie.

76. GRECO notes, with regard to the National Police, in addition to the role of AMARIS in risk mapping as already described in the Evaluation Report, the inclusion of corruption to the list of existing risks on which internal measures are based. As for the National Gendarmerie, it considers that mapping relating specifically to ethics that includes “lack of integrity and probity” is a positive step. It notes that there are plans to adopt an action plan with a monitoring and follow-up mechanism. GRECO takes note of these developments within the National Police and the National Gendarmerie. However, the recommendation calls for the adoption of a global anti-corruption strategy covering all law enforcement agencies which will be made public and could be followed up by action plans specific to the National Police and Gendarmerie (Evaluation Report, para. 165). Therefore, for the moment, this recommendation has been partly satisfied.

77. GRECO concludes that recommendation xiii has been partly implemented.

Recommendation xiv.

78. *GRECO recommended that the commentary on the code of ethics of the National Police and the National Gendarmerie be revised to further expand on integrity issues (such as conflicts of interest, gifts, contacts with third parties and handling of confidential information) with specific examples being included.*

79. The French authorities state that following discussions within an ad hoc working group made up of the IGPN and the IGGN, a proposed updated version, as recommended by GRECO, of the commentaries on Articles R. 434-9 (probity) and R 424-13 (not holding more than one job) of the Internal Security Code, which establishes the common code of ethics for the National Police and Gendarmerie, was drawn up. This proposal expands further on integrity issues and gives specific examples of possible breaches or authorised behaviours. In May 2021, the text received a favourable response from the National Police and Gendarmerie. The authorities state that this document should be ratified as soon as possible, and will be finally approved by the Ministry of the Interior.

80. GRECO has had access to the revised version of the Code of Ethics of the National Police and Gendarmerie which expands further on the concepts of conflicts of interest, gifts and second jobs among other things and gives examples has been drawn up. This proposed version, which has been approved by the National Gendarmerie and Police, must now be ratified by the Ministry of the Interior. Pending its final adoption, GRECO considers this recommendation partly complied with.

81. GRECO concludes that recommendation xiv has been partly implemented.

Recommendation xv.

82. *GRECO recommended that (i) the confidentiality of advisory procedures with ethics advisers/correspondents be provided for in law; (ii) specific training be provided for ethics advisers/correspondents.*

83. The French authorities state, regarding part (i) of the recommendation, that the confidentiality of consultations with ethics advisers is provided for in Art. 7 of Decree No. 2017-519 of 10 April 2017 on ethics advisers in the civil service. Furthermore, police officers have an obligation of discretion and professional secrecy (Art. R434-8, Internal

Security Code). In addition, a circular from the Ministry of the Interior of 18 March 2019 on the organisation of the ethics network within the ministry states that consultations, which are strictly personal and confidential, are never disclosed to higher authorities.

84. As for part (ii) of the recommendation, the IGGN has been holding training seminars for its 50 ethics correspondents since 2017 to enable newly-appointed correspondents notably on the regime in place, the failings identified and the responses implemented. Three such seminars are being held in 2021. As for the police, the head of the IGPN has been appointed ethics adviser and all ethics correspondents also belong to the IGPN, which is responsible on a daily basis with the practical and concrete implementation of ethical standards. They act as trainers in ethical training programmes.
85. GRECO notes, in relation part (i) of the recommendation, that the authorities now say that the confidentiality of consultations with ethics advisers is provided for by a decree, which fulfils the recommendation's aim of having this rule laid down in legally binding provisions. A ministerial circular of 18 March 2019 also points out that consultations with ethics advisers are strictly confidential. This part of the recommendation has thus been dealt with in a satisfactory manner.
86. As to part (ii) of this recommendation, GRECO notes that the National Gendarmerie has introduced training for its ethics advisers. As for the National Police, GRECO notes that the ethics adviser and correspondents are all based in the IGPN and are therefore not only trained on integrity matters but are also trainers within the police. Therefore, GRECO considers that this part of the recommendation has been implemented.
87. GRECO concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

88. *GRECO recommended that security checks relating to the integrity of members of the National Police and the National Gendarmerie be carried out at regular intervals in accordance with the Internal Security Code.*
89. The French authorities now state that the Internal Security Code made provision for the introduction of security checks at regular intervals not in relation to the integrity of members of the security forces, but solely in relation to the fight against terrorism. They state that they have decided to favour peer and hierarchical control which is constant and can identify abnormal behaviours. They add that consideration could be given to regular screening of police officers and gendarmes not on the basis of a detailed investigation, but by viewing different records (such as criminal records, handling of court cases, disciplinary action monitoring tool) in order to ascertain whether officers have, over the previous period, committed acts that would cast a stain on their integrity. This would require amendments to legislation and regulations, including the status of staff. A working group has been established under the IGPN to examine how to implement this recommendation (para. 72).
90. GRECO refers to the Evaluation Report, which notes that security checks are currently carried out upon recruitment and in the event of a change of post but apart from these two cases, they are not carried out regularly (para. 200). It reiterates that officers'

personal circumstances are likely to change over time and, in some cases, make a person more vulnerable to possible corruption risks (financial problems arising, for example, as a result of a mortgage or personal loan, bankruptcy of a spouse, etc.) (ibid.). The recommendation advocates the introduction of regular vetting during the careers of police personnel, whose frequency should depend on risk exposure, in order to identify possible vulnerabilities (para. 201). Taking note of the recent setting-up of a working group to look into ways of implementing its recommendations, GRECO calls on the French authorities to define how this recommendation can be put into effect.

91. GRECO concludes that recommendation xvi has not been implemented.

Recommendation xvii.

92. *GRECO recommended that the National Police set up a rotation system in the sectors identified as most vulnerable to corruption risks.*

93. The French authorities state that police Chief Superintendents are subject to a functional mobility obligation (five years in a single post, extendable by three years). They add that an extension of the rule to all staff of the internal security forces can be considered, but to support transfers, consideration would need to be given to budgetary compensation. In their view, such a reform stands little chance of success in the face of opposition from personnel and their trade union organisations. They favour peer monitoring, joint working and job rotation to aid efforts to prevent the risk of breaches of integrity. However, the authorities refer to the recent creation of a working group under the IGPN to implement this and other recommendations (see para. 72).

94. As for highly technical roles, the French authorities state that they need to be able to rely on specialists who have the necessary training and experience, for whom time-limited assignments would make no sense. In their view, the solution would be to offer, if not require, exchanges between departments that are located close to each other and have identical roles so that knowledge necessary for the continuity of public service is not lost. They add that it would be important to leave the head of a department, who is best placed to assess the situation, in charge of organising the relevant rotations among its staff internally. A change of group or unit would thus no longer need to be validated, as it currently does, by adhering to a nomenclature or drawing up an assignment order, and would become a purely internal measure.

95. GRECO notes that discussions have begun with a view to implementing the recommendation while taking into account the constraints inherent in the running and organisation of the National Police. It underlines that the measures by means of which the authorities organise a form of rotation are within their margin of appreciation. GRECO encourages the authorities to continue considering the most appropriate measures to address the aim of this recommendation, notably within the framework of the working group recently established for this purpose.

96. GRECO concludes that recommendation xvii has been partly implemented.

Recommendation xviii.

97. *GRECO recommended that (i) the protective regime for whistleblowers be evaluated and revised in order to simplify the reporting procedure; (ii) the training of law enforcement authorities on this regime be further strengthened.*
98. The French authorities state, in relation to part (i) of the recommendation, that the mechanisms currently in place within the French internal security forces will change because of the transposition, no later than December 2021, of EU Directive 2019/1937 on the protection of persons who report breaches of Union law.³ The National Police and the National Gendarmerie will each adapt this directive. The French authorities state that the task of evaluating the whistleblowing system is made difficult by the lack of cases. They find that the current procedure for receiving reports from whistleblowers within the Ministry of the Interior is bureaucratic. They could be followed up by getting back in touch with the whistleblower to make sure he/she has not been subject, after making his/her report and after it has been investigated by the officer designated to receive reports, to any sanctions or discrimination as a direct result of his/her disclosure.
99. As for part (ii) of the recommendation, the French authorities state that the topic is mentioned little during initial training and addressed during ethics training; there is no specific course on the whistleblowing system for any of the bodies. The subject is addressed: (i) in the content of the training for the qualifying examination for promotion to the rank of senior law enforcement officer, during the general criminal law course, (ii) in the initial training provided to senior law enforcement officers and when they are promoted from the rank of captain to commander during a presentation of ethical obligations (which lasts four hours and is held every year), with instructions having been given to focus on integrity issues and whistleblower status. The ethics component of the training for gendarme cadets was fully revised in 2020, with modules on integrity and the whistleblowing system. In addition, distance training for gendarme cadets has been developed with the Defender of Rights in relation to the counselling and protection of whistleblowers. This training has become compulsory for all cohorts of gendarme cadets from September 2021 onwards.
100. GRECO notes that, with regard to part (i) of the recommendation, the whistleblowing system will change in the near future because of the transposition of Directive 2019/1937 on the protection of persons who report breaches of Union law. This will have an impact on the procedure for reports made within law enforcement agencies. GRECO is therefore unable to express a view at this stage.
101. As for part (ii) of the recommendation, GRECO notes that the revised initial training for gendarme cadets now includes a module on the whistleblowing system, which is a positive development. These efforts need to be sustained in order to incorporate a module of this kind into in-service training. With regard to the National Police, the whistleblowing system is currently only covered in general training. While it notes the progress made in relation to initial training for gendarme cadets, when the

³ The bills for the transposition of the directive were submitted by a deputy of the National Assembly on 15 and 21 July 2021 and are to be examined on 15 November 2021.

recommendation is considered as a whole, GRECO cannot regard this as sufficient to regard the recommendation as partly implemented.

102. GRECO concludes that recommendation xviii has not been implemented.

III. CONCLUSIONS

103. **In the light of the foregoing, GRECO concludes that France has satisfactorily implemented one of the 18 recommendations set out in the Fifth Round Evaluation Report.** Of the remaining seventeen recommendations, nine recommendations have been partly implemented and eight have not been implemented.

104. More specifically, recommendation xv has been implemented satisfactorily, recommendations i, ii, iii, iv, v, vii, xiii, xiv and xvii have been partly implemented and recommendations vi, viii, ix, x, xi, xii, xvi and xviii have not been implemented.

105. With regard to top executive functions, GRECO notes certain positive developments overall but also several aspects on which no progress has been made, particularly in relation to transparency. With regard to preventing conflicts of interest, GRECO welcomes the fact that the High Authority for Transparency in Public Life (HATVP) must now carry out ethics vetting of persons considered for employment as members of ministers' private offices and staff of the President of the Republic, when they have been employed in the private sector over the last three years, before they are appointed, failing which such appointments are void. Work to develop codes of conduct applicable to all persons with top executive functions for each ministry has begun, with assistance from the French Anti-Corruption Agency (AFA). At the same time, several issues remain outstanding. For example, the authorities still need to require persons with top executive functions to publish at regular intervals a list of lobbyists they have met and the subjects discussed; the issues at stake here are the transparency of the decision-making process at the highest level and any influences exerted on it by third parties. Moreover, declarations of interests and assets of candidates who are elected President of the Republic should be checked by the HATVP in order to address any conflicts of interest at the beginning of their term of office.

106. With regard to the law enforcement agencies, some progress has been made and discussions are ongoing. However, further efforts need to be made to implement all of the recommendations, with the exception of that dealing with ethics advisers which has been fully implemented. While there are initiatives to deal with identified risks in both the National Police and Gendarmerie, a public, global strategy for the whole law enforcement agencies is still to be adopted. The code of ethics that applies within the National Police and the National Gendarmerie has been revised so that it expands on integrity issues and gives illustrative examples; the Ministry of the Interior has yet to approve it. In addition, although discussions have begun, regular security checks still need to be carried out throughout police officers' careers in order to identify any vulnerabilities linked to changes in their personal circumstances which might make them more exposed to corruption risks. Likewise, discussions should continue with a view to creating a rotation system to prevent risks from increasing over time, especially in areas identified as being more susceptible to corruption.

107. In the light of the foregoing, GRECO notes that further progress will need to be made within the next 18 months to achieve an adequate level of compliance with the recommendations. In accordance with Rule 31 revised bis, paragraph 8.2, of its Rules of Procedure, GRECO calls on the head of the French delegation to submit additional information with regard to the implementation of recommendations i to xiv and xvi to xviii, namely recommendations ii to xviii, by 30 June 2023.
108. GRECO invites the French authorities to authorise the publication of this report at their earliest convenience and make it public.