

Adoption: 1 December 2023
Publication: 16 April 2025

Public
GrecoRC5(2023)8

FIFTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

SPAIN



Adopted by GRECO
at its 95th Plenary Meeting (Strasbourg, 27 November – 1 December 2023)



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

I. INTRODUCTION

1. GRECO's Fifth Evaluation Round deals with "Preventing corruption and promoting integrity in central governments (top executive functions, PTEF) and law enforcement agencies (LEA)".
2. This Second Compliance Report assesses the measures taken by the authorities of Spain to implement the recommendations issued in the Fifth Round Evaluation Report on Spain which was adopted at GRECO's 83rd Plenary Meeting (21 June 2019) and made public on 13 November 2019, following authorisation by Spain. The corresponding Compliance Report was adopted by GRECO at its 88th Plenary Meeting (22 September 2021) and made public 29 March 2022, following authorisation by Spain.
3. As required by GRECO's Rules of Procedure¹, the authorities of Spain submitted a Situation Report on measures taken to implement the recommendations. This report was received on 31 March 2023 and served, together with additional information, as a basis for the Second Compliance Report.
4. GRECO selected Italy (with respect to top executive functions in central governments) and the United States of America (with respect to law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Emma RIZZATO, on behalf of Italy and Ms Michelle MORALES, on behalf of the United States of America. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

II. ANALYSIS

5. GRECO, in its Fifth Round Evaluation Report, addressed 19 recommendations to Spain. In the Compliance Report, GRECO concluded that recommendations iii, iv, viii, ix, xii, xv and xvi had been partly implemented and recommendations i, ii, v, vi, vii, x, xi, xiii, xiv, xvii, xviii and xix had not been implemented. Compliance with the outstanding recommendations is examined below.

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

Recommendation i

6. *GRECO recommended reinforcing the current regime applicable to advisors, subjecting them to equivalent transparency and integrity requirements as those applied to persons with top executive functions.*
7. It is recalled that this recommendation was not implemented in the Compliance Report. Some preparatory work had been done but it was just at inception stages.
8. The authorities of Spain indicate that the Code of Good Administration, which is a specific component of the system of integrity for central administration (SIAGE) (see also

¹ The compliance procedure of GRECO's Fifth Evaluation Round is governed by its Rules of Procedure, as amended: Rule 31 revised bis and Rule 32 revised bis.

paragraph 13), applies to advisors. SIAGE further foresees the development of further integrity tools (internal information channels and institutional ethics mailboxes, integrity risk management system, training, and awareness activities, monitoring mechanisms, etc.).

9. As regards transparency, the working group involved in the preparation of the draft Bill to amend Law 19/2013 Transparency, Access to Information and Good Governance, within the Open Government Forum, has proposed to broaden active disclosure obligations. Such a proposal encompasses, *inter alia*, the publication on the Transparency Portal of the General State Administration, of the profiles and salaries of advisors, Secretaries of State and other persons in positions of special responsibility through discretionary appointment (*puestos de libre designacion*).
10. GRECO notes that work on the transparency and integrity requirements of advisors is still at very incipient stages. There is no evidence that particular attention has been paid, in the framework of the holistic integrity system reform, to the situation of advisors and the political nature of their appointment and their functions, which are different from that of other public officials (civil servants/public employees). As for transparency, GRECO notes that there is a proposal to publish the profile and salaries of advisors in the Transparency Portal, but this needs to materialise in practice. GRECO calls on the authorities to take effective action in this respect.
11. GRECO concludes that recommendation i remains not implemented.

Recommendation ii

12. *GRECO recommended (i) devising an integrity strategy for analysing and mitigating risk areas of conflicting interests and corruption in respect of persons with top executive functions and (ii) connecting the results of such a strategy to a plan of action for implementation.*
13. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO took note of the plans of the authorities to introduce strategic planning and corruption risk assessment in public administration. It however did not find any substantiation that such measures would also apply, or be specifically tailored, to persons with top executive functions (PTEFs).
14. The authorities of Spain provide an update on implementation of their commitments under the IV Open Government Plan (2020-2024). A system of integrity for central administration was adopted on 7 March 2023 ([SIAGE](#)) and published on the Transparency Portal on 4 July 2023. Prior to its formal adoption, a comprehensive consultation process took place in between 2021-2023 (including through surveys on integrity among the inspection services of all ministerial departments, contributions from civil society organisations and individuals). SIAGE provides for a holistic integrity framework that is to be tailored to the specific situation of public bodies. Work is in progress in individual organisations to develop their own sectorial integrity systems and their specific components (codes of conduct, training, risk maps, reporting channels, self-evaluation).

15. SIAGE includes a specific section on integrity risk management, which details the actions to be carried out in the individual organisation to identify fraud risks, assessing risks through maps and matrices that make it possible to analyse their frequency and seriousness, putting in place corrective measures, as well as documenting and recording the risks.
16. Regulations have been enacted to mitigate risk areas of conflicts of interest, particularly under the Recovery, Transformation and Resilience Plan (Order HFP/55/2023). A Conflict of Interest Advisory Unit within the General Intervention of the State Administration (IGAE) has been established. This unit performs the following functions: (i) issuing opinions on whether or not an employee should refrain from a matter that could cause a conflict of interest; (ii) publishing good practices to avoid and prevent conflicts of interest; (iii) preparing handbooks with practical information on how to identify and deal with conflict of interest situations, addressed to both anti-fraud committees and managers; (iv) review and issuing reports regarding any draft regulations or procedures established to avoid conflicts of interest. Units implementing the Recovery, Transformation and Resilience Plan have access to the data-mining tool MINERVA, a computerised conflict of interest risk analysis tool that the Tax Agency (*Agencia Estatal de Administracion Tributaria*) makes available to all decision-making entities, executing entities and instrumental entities participating in the Plan.
17. Moreover, the authorities also refer to quality management tools (i.e. EVAM², Cyklos quality test) that have continued to be developed and applied in different administrations at national and sub-national level.
18. The authorities highlight that Law 2/2023 on the Protection of Persons Who Report Regulatory Infringements and the Fight Against Corruption (hereinafter Whistleblower Protection Law), transposing the Directive (EU) 2019/1937, was adopted on 20 February 2023. The purpose of this Law is to protect individuals who, in a professional context, detect criminal or administrative infractions and report them through internal and external reporting channels. It broadens the material scope of the Directive as it encloses infringements of EU law and of national law and establishes the Independent Whistleblower Protection Authority (*Autoridad Independiente de Proteccion del Informante*). Law 2/2023 also foresees the development of an anti-corruption strategy by summer 2024³. SIAGE has served to implement internal information systems within the framework of Law 2/2023. Internal reporting channels have been implemented in all 22 ministries and in their dependent public bodies obliged to have such channel.
19. Finally, the authorities also refer to the draft National Anti-Fraud Strategy (ENA) being prepared by the National Anti-Fraud Coordination Service of the IGAE, that is part of the SIAGE. The ENA also foresees the approval of an Action Plan for the period 2024-2026. Strategic Objective 1 of the Action Plan is aimed at implementing public integrity and

² The 2021 version of the [EVAM Guide](#) (evaluation/appraisal system of public officials) includes specific questions on integrity. The [Cyklos](#) quality test consists of an online tool which includes questions (64 questions which also comprise integrity aspects) and provides feedback via email on less than 24 hours. It also serves as a way to map the situation of quality management throughout public administration, to draw up conclusions and to identify common trends. It focuses on processes, people and results. The model has been implemented in the 52 Government Delegations and Sub-delegations of the Ministry of Territorial Policy.

³ The fifth additional provision of Law 2/2023 mandates the Government to approve a “Strategy against Corruption” within 18 months starting in February 2023.

anti-corruption policies. These actions include: establishing institutional integrity systems and raising staff awareness; analysing and clarifying existing anti-corruption manuals, guidelines and procedures; improving mechanisms to prevent and detect fraud, corruption and any administrative or criminal offences committed by staff; strengthening systems to prevent and respond to situations of conflicts of interest; promoting a culture of ethics as well as training adapted to the needs of each entity.

20. GRECO recognises the steps taken by the authorities to devise a holistic integrity framework for central administration. It is now for each public body to design its integrity system through the development of risk mapping, adapted ethic codes, integrity and conflict of interest policies, training, whistleblower reporting channels, and evaluation mechanism.
21. While a number of measures are under development and can be considered cross-cutting for the entire public sector, GRECO calls on the authorities to pay closer attention to the particular situation of PTEFs and the specific risk areas of conflicting interests and corruption that PTEFs face in the development of their functions. Some elements of the broader integrity reform may cover such risks, but GRECO expects a more tailor-made approach to the implementation of recommendation ii. GRECO stresses again that PTEFs face some particular (and different) challenges from other public servants because of the political nature of their role, their interactions with the private sector, etc.
22. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii

23. *GRECO recommended that (i) a code of conduct for persons with top executive functions be adopted and made easily accessible to the public, and (ii) that it be complemented by practical measures for its implementation, including written guidance, confidential counselling and dedicated training.*
24. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO called for a streamlined code, which would gather the applicable integrity provisions for PTEF which were scattered in several instruments (codes and legislation) adopted at different points in time. GRECO positively assessed the advisory role played by the Office for Conflicts of Interest (OCI) but asked for information on dedicated training.
25. The authorities of Spain indicate that in order to complement Law 19/2013 on Transparency, Access to Information and Good Governance, an essential part of the SIAGE is the Code of Good Governance that guides the conduct of members of Government and senior officials. It establishes provisions on (1) serving the public interest; (2) integrity; (3) objectivity; (4) impartiality; (5) transparency; (6) confidentiality; (7) due diligence and the quality of the public service; (8) accountability; (9) equal treatment and gender equity; (10) rigour; (11) credibility; (12) commitment to public service; (13) leading by example; (14) accessibility; (15) efficacy; (16) honesty; (17) promotion of culture and respect for the environment.

- 26. The Code defines high standards of conduct for PTEFs, going beyond minimum requirements, putting the public interest first and promoting adherence to public service values in order to promote good governance. It is also intended as a tool to promote personal reflection on the challenges faced by those who exercise public responsibilities. At the same time, its dynamic nature will allow its adaptation to the demands of society. The Code communicates values and standards of the public sector both internally and externally. Internally, the Code clarifies expectations of integrity standards for members of government and senior public officials. Externally, the Code informs the private sector, civil society and individuals about the values of the public sector, so that these values are respected in their interactions with them.

- 27. The Code includes an entire section on the prevention and management of conflicts of interest. Senior managers must exercise ethical leadership in the organisation and, to this end, must be actively committed to the prevention and proper management of conflicts of interest. If a conflict of interest arises or if there is a risk of any potential conflict of interest, the senior official must refrain from acting in the proceedings and shall notify in writing his/her immediate superior or the body that appointed him/her. This abstention will be communicated by the senior official within one month to the Registry of Activities of senior officials for record. The senior official may at any time question the OCI on the advisability of abstaining from specific matters and ask for guidance on implementation of the Code of Good Governance.

- 28. Counselling on the implementation of the Code of Good Governance, the prevention and management of conflicts of interest and advice on ethical dilemmas is entrusted to the OCI, as done in the past. In addition, the use of questionnaires and forms is recommended as a method of identifying situations (the Code includes a model questionnaire). In 2022, the OCI updated a FAQ guide on conflicts of interest and declarations by senior officials and uploaded an English version of the guide "Regime for Senior Officials Working within the General State Administration. Relevant Aspects".

Monitoring work performed by the OCI in 2022

SUBJECT	NUMBER OF CONSULTATIONS
Declarations upon entry and exit of office	365
Good reputation requirements	181
Annual Tax Returns	751
Post-employment activities authorised	46
Sanctions regime	0
Consultations to the Commercial Registry	184
Consultations to the Social Security Treasury	1213
Total	2740

- 29. Finally, regarding dedicated integrity training, both the OCI and the National Institute of Public Administration (INAP) organise training programs aimed at personnel in managerial and pre-managerial positions (including PTEFs). In 2022, the INAP organised a course on "Prevention of corruption in public administration" that covered the following aspects: the prevention and fight against corruption in public administrations; the concepts of public ethics, integrity, and the fight against corruption; public integrity in public administrations; tools, recommendations and guidelines related to the prevention and fight against fraud and corruption in Spain. Another

training programme, entitled "Integrity in the performance of public functions", was held in April 2023. It covered the following items: understanding the complexity of public integrity and its analytical variables; understanding the value and implementation of integrity frameworks; knowing the main tools to promote integrity at organisational level; identifying practical tools and frameworks for implementing conflict of interest management mechanisms in their departments; outlining the responsibilities of public ethical managers.

30. GRECO acknowledges the action taken by the authorities to provide for a separate, more user friendly Code of Good Governance for PTEFs, which is accompanied by written guidance. The Code is coupled with a monitoring, enforcement, and confidential counselling system. Regarding training on ethics and integrity, there is no evidence that PTEFs have actually followed any session. It would appear from the information provided that the courses are more geared to, and attended by, civil servants. The recommendation calls for dedicated training for PTEFs, more systematic action is required in this respect.
31. GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv

32. *GRECO recommended (i) further advancing in the implementation of Law 19/2013, notably, by facilitating information request procedures, providing for a reasonable time to answer such requests and introducing appropriate requirements for the registration and handling of public information provided in electronic form, and (ii) raising awareness among the general public about their right to access information.*
33. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO took note of the legislative reform envisaged in this area, which was still at early stages. It welcomed the on-going awareness raising measures on freedom of information requirements (FoIA).
34. The authorities of Spain indicate that work has proceeded at good pace regarding amendments to Law 19/2013 on Transparency, Access to Information and Good Governance, in line with the commitments made (and subsequently reviewed) under the IV Open Government Plan (2020-2024). Several analyses on different components of FoIA were developed by experts belonging to both public administration and civil society. A broad process of public consultation (with several events held) took place in February 2023.
35. The draft is being further refined, based on the conclusions of the Working Group established within the Open Government Forum. With regard to the exercise of the right of access to public information, the Working Group's conclusions - which will be reflected in the draft law - are aimed at providing applicants with a clear outline of the steps to follow and the resources available for the effective exercise of their right. In general terms, the aim is to address the shortcomings, gaps or difficulties of interpretation or application of the current regulatory framework. For example, the deadline for the response by the Administration is shortened, indicating that it begins to run from the moment the application is submitted by any legally admissible means,

and not when the application reaches the administrative centre responsible for resolving it, as is currently the case. In addition, it is proposed to enable a new channel with the possibility of requesting information without the need to identify the applicant, on information that has already been published or other information in which certain circumstances apply, such as the non-applicability of any of the limits listed in the law. In such cases it would be sufficient for the applicant to provide an email address.

36. Additional efforts have been made to improve implementation of access to information requirements. In this connection, the Council for Transparency and Good Governance has improved the management of complaints which ultimately reinforces the guarantee of the right of access to information. Furthermore, to comply with one of the commitments of the IV Open Government Plan, the General Directorate of Public Governance organised an online workshop in June 2023, to gather proposals to improve the Transparency Portal from the point of view of how information is organised and displayed, accessibility to information and usability. Representatives from both public administration and civil society took part in the workshop. The results have been published and are available [online](#).
37. Moreover, the authorities add that several Autonomous Communities and municipalities have made progress in this area and have developed their own rules on transparency. The authorities are also pleased to confirm that Spain ratified, on 27 September 2023, the Council of Europe Convention on Access to Official Documents (CETS 205).
38. As to awareness-raising measures, the authorities report on multiple activities in this domain: a communication campaign, targeted workshops for vulnerable groups, issuing information material, etc.
39. GRECO acknowledges the efforts made by the authorities to advance the implementation of access to information requirements, including through the recent ratification of the Council of Europe Convention on Access to Official Documents (CETS 205). GRECO also notes the thorough and inclusive process that has taken place to amend Law 19/2013 on Transparency, Access to Information and Good Governance and thus facilitate a better implementation of FOIA requirements. While recognising progress on this front, GRECO awaits the effective adoption of the anticipated amendments.
40. Regarding the second part of the recommendation, GRECO is pleased to note that the authorities have undertaken specific initiatives to raise awareness among the general public (and also with a particular focus on vulnerable groups) about their right to access information. GRECO considers that this part of the recommendation has been fully met.
41. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v

42. *GRECO recommended providing the Council for Transparency and Good Governance with proper independence, authority and resources to perform its monitoring functions effectively.*
43. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO took note of the increase in the budget of the Council for Transparency and Good Governance (CTBG) but underscored that the scope of recommendation v was much broader and holistic.
44. The authorities of Spain indicate that the conclusions of the Working Group, established within the Open Government Forum to improve access to information legislation, propose some targeted action regarding the Council for Transparency and Good Governance, including regarding sanctions, independence (such as, reviewing the process for the appointment President), and means (additional material and personal resources). Furthermore, it is proposed to increase the number of representatives on the Transparency Commission (advisory and consultative body of the Council for Transparency and Good Governance) to include representatives of civil society and independent experts.
45. The authorities also refer to a steady increase in resources of the CTBG along the years (see table below). Likewise, since its establishment, the Council's activity has increased exponentially. There has been a steady increase in the number of cases brought by citizens: 517 (2015), 890 (2016), 1 067 (2017), 1 338 (2018), 1 780 (2019), 1 704 (2020), 2 245 (2021) and 2 071 (2022). Regarding the evaluation of the compliance with active advertising obligations by obligated subjects, the Council has implemented an evaluation methodology that, in 2021, resulted in 239 evaluation reports.

Budget/year	Financial means CTBG
2021	1 743 690 €
2022	2 328 790 €
2023	2 690 060 €

46. GRECO takes note of the sustained increase in financial means of the Council for Transparency and Good Governance and welcomes this fact given its growing workload. GRECO particularly values the important task the Council has performed along the years in monitoring transparency of public officials, including PTEF, and bringing irregularities to light. For this reason, GRECO can only welcome the proposal made to enhance the independence, powers and means of the Council and trusts that such a proposal meets effective and swift action.
47. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi

48. *GRECO recommended (i) introducing rules on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence Governmental legislative and other work; and (ii) that sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion.*
49. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO noted that a legislative proposal was underway; it however did not address in full the different components of the recommendation and was still at very early stages.
50. The authorities of Spain indicate that on 8 November 2022, the Council of Ministers adopted a draft Bill on the Transparency and Integrity of the Activities of Interest Groups. The text provided for the creation of a register of interest groups, defines what constitutes an activity of influence and specifies the activity that a natural or legal person may carry out to be considered a "lobby". However, approval of the draft by the Council of Ministers did not take place because of the call for elections and the early dissolution of Parliament.
51. Regarding agendas, the authorities note that Law 19/2013 establishes the mandatory requirements for senior officers to publish their agendas in the Transparency Portal. Recommendation 1/2017 on Information on the Agendas of Public Officials of the Council for Transparency and Good Governance insists on the active disclosure of the agendas of PTEFs (personnel whose activity is related to decision-making in matters within their competence, the management and handling of public funds or resources and the delimitation of criteria for action). Moreover, the recommendation details the information that those agendas have to include (meetings held in the exercise of their public functions with the personnel under their charge or with other persons, natural or legal, for the purpose of defining or developing the actions to be carried out in the exercise of their functions or official trips and travels made by the public official) and the form and periodicity of the publication.
52. GRECO regrets that the draft Bill on the Transparency and Integrity of the Activities of Interest Groups has not been adopted as it was meant to infuse greater transparency into lobbying activities vis-à-vis the executive. Even so, the draft focused on one side of the equation: lobbyists, by creating a register, laying down their obligations and required conduct, as well as the applicable sanctions in case of breaches. There was nothing in the draft about the other side of the equation: PTEFs, which is the one specifically targeted by recommendation vi. This needs to be effectively addressed.
53. As regards transparency of the agendas, nothing new has been added to what was already described in the Fifth Round Evaluation Report. While the Council for Transparency and Good Governance has insisted on the need to publish informative agendas, practice continues to be at broad variance.
54. GRECO concludes that recommendation vi remains not implemented.

Recommendation vii

55. *GRECO recommended that the legislation governing post-employment restrictions be subject to a review by an independent body and that it be strengthened wherever considered necessary.*
56. It is recalled that this recommendation was not implemented in the Compliance Report as no action had been taken in its regard.
57. The authorities of Spain indicate that the draft Bill on the Transparency and Integrity of the Activities of Interest Groups included a two-year lobbying ban on high-ranking officials.
58. GRECO takes note of the update provided. It however bears no relevance any longer since the said draft did not see the light due to the end of the government's term. In any event, the recommendation is much broader: it calls for an independent review of the current system in view of its improvement, wherever necessary.
59. GRECO concludes that recommendation vii remains not implemented.

Recommendation viii

60. *GRECO recommended (i) widening the scope of publication requirements of financial disclosures to include disaggregated/detailed information on assets, interests, outside employment and liabilities; and (ii) considering shortening the timeframes for reporting and publication and including information on spouses and dependent family members - it being understood that such information would not necessarily need to be made public.*
61. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO welcomed the move towards e-filing and systematic publication of asset declarations on a yearly basis. GRECO also acknowledged the introduction of further itemisation of the types of assets and liabilities to be reported. However, GRECO asked for greater disaggregation of the data reported, including on outside activities. Finally, GRECO was not convinced that sufficient consideration had been paid to the second component of the recommendation.
62. The authorities of Spain indicate that no significant developments have taken place in this area.
63. In the absence of any update, GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix

64. *GRECO recommended that the advisory, supervisory and enforcement regime regarding conflicts of interest of persons with top executive functions be substantially strengthened, including by reinforcing the independence and autonomy, powers and resources of the Office for Conflicts of Interest.*

65. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO acknowledged the steps taken to reinforce the powers and resources of the OCI. Nothing had been said as to improvements concerning the independence and autonomy of the OCI.
66. The authorities of Spain refer to the enhancement of the responsibilities of the OCI, as provided in the SIAGE (see also paragraphs 26 and 27).
67. GRECO notes that there have been no changes to the rules governing the independence and autonomy of the OCI and concludes that recommendation ix remains partly implemented.

Recommendation x

68. *GRECO recommended ensuring that the special procedure of “aforamiento” be amended, so that it does not hamper the criminal justice process in respect of members of Government suspected of having committed corruption related offences.*
69. It is recalled that this recommendation was not implemented in the Compliance Report. A study had been commissioned by the authorities to look into the matter, but no tangible outcome had taken place.
70. The authorities of Spain reiterate again that the issue of “aforamiento” is a delicate one since it would require a constitutional amendment, necessitating from some broad consensus from different institutions, which proved difficult to achieve. The authorities nevertheless stress again that the special procedure of “aforamiento” does not waive liability of the persons it covers, but just that matters are decided before the Criminal Chamber of the Supreme Court.
71. The authorities refer to various amendments in different sub-national legislation (Aragón, Baleares, Cantabria and Murcia) to amend the issue of “aforamiento” and to limit the number of officials under such a regime.
72. GRECO notes that there has not been any change in this area at central level, which is the subject of review of the present Fifth Evaluation Round, and concludes that recommendation x remains not implemented.

Preventing corruption and promoting integrity in law enforcement agencies

Recommendation xi

73. *GRECO recommended that the Police and the Civil Guard (i) conduct a strategic risk assessment of corruption-prone areas and activities to identify problems and emerging threats, and (ii) the data gathered are used for the proactive design of an integrity and anticorruption strategy. Preferably, a joint consultation between both forces in such exercises should be considered.*

74. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO regretted the lack of any targeted action in this area.
75. The authorities of Spain indicate that the Internal Affairs Unit (IAU) of the Police carries out continuous risk-assessment of corruption-prone areas and performs strategic surveillance and control tasks in all areas considered a priority in the fight against corruption. To do so, it works on two dimensions: it reacts to corruption events whenever an irregular conduct is detected, and it also develops preventive tools. In this connection, IAU has developed protocols for the performance of different functions, including those particularly sensitive to corruption, to reinforce the applicable internal controls (professional secrecy, good practice, action guides, etc.).
76. IAU is also collecting and tabulating data on investigations, as well as conducting specific studies, in order to be able to identify patterns and trends in corruption (by geographical area, job description, hierarchy level, etc.). Because of the aforementioned activities, it has been possible to determine the regions with the highest crime rates, the types of offences that repeat most frequently, and the workplaces and positions with the highest crime incidence, seeking to develop new statistics that will allow a more accurate picture of the corruption phenomenon.
77. Further, the development of a predictive model jointly with the University is being explored. It will allow approaching the corruption phenomenon from a probabilistic point of view, calibrating the significance of each of the factors in the phenomenon, thus permitting the preparation of situation reports that would serve as a basis for the adoption of strategies and policies to prevent corruption. The application of these probabilistic models would improve the proactive or preventive approach by showing what, with a certain degree of probability, is going to occur.
78. Regarding the Civil Guard, it has been applying analytical and rational criteria in its strategic planning processes through the balanced scorecard (BSC). The implementation of this system facilitates the identification of the essential elements of the Civil Guard's mission and links them to the organisation's goal and objectives.
79. Moreover, the Deputy Operational Directorate (*Dirección Adjunta Operativa*) periodically carries out a risk analysis of conduct contrary to professional ethics that constitute criminal offences committed by members of the organisation, during the performance of their duties or off-duty. These analyses are reflected in quarterly and annual strategic studies, the purpose of which is to highlight the situation of professional ethics in the Civil Guard. In addition, at specific times, strategic studies are also carried out, focusing on areas and types of crime that are more prone to corruption.
80. The Professional Associations of the Civil Guard have been informed about the implementation of a Professional Ethics Action Plan. Work has also begun on the preparation of a Ministerial Order for the Implementation of the Code of Conduct which contemplates, among other issues, an integrity system on the basis of the one published for the General State Administration. In addition, the internal information system in compliance with the Law 2/2023 is also being prepared.

81. Moreover, the authorities indicate that, in the field of corruption, the cooperation between the Civil Guard and the Police has materialised in the collaboration between the Internal Affairs Unit (IAU) of the Police and the Internal Affairs Service of the Civil Guard (SAI).
82. GRECO takes note of the activities carried out by the Internal Affairs Unit of the Police to carry out risk assessment of corruption-prone areas which are in line with the first part of the recommendation. As to the second part of the recommendation, GRECO trusts that the risk-assessment tools already in place, as well as those under development, will inform the design of a dedicated anticorruption integrity and anticorruption strategy for the Police which has not yet been developed.
83. GRECO notes that work is under progress in the Civil Guard regarding this recommendation. However, under the first component of the recommendation regarding risk assessment, it appears that, to date, the focus has been more reactive than proactive. A dedicated integrity and anti-corruption strategy, that meets the general framework established by the SIAGE, is yet to be developed.
84. GRECO welcomes that the authorities report a good level of cooperation between the respective Internal Affairs Units of the Police and the Civil Guard. It calls on the respective organisations to undertake the necessary action to fully implement recommendation xi.
85. GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii

86. *GRECO recommended that (i) the Civil Guard adopt a Code of Conduct and make it publicly available; (ii) both the National Police and the Civil Guard complement their respective Codes by guidelines and practical measures for their implementation (e.g. regarding conflicts of interest, gifts, use of public resources, confidential information, accessory activities, political neutrality, etc.), as well as a credible and effective mechanism for oversight and enforcement.*
87. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO noted that the Civil Guard had drafted a Code of Conduct, which was yet to be adopted, and then supplemented with accompanying measures to render it effective. The Police had not taken any action to meet this recommendation.
88. Regarding the first part of the recommendation, the authorities of Spain indicate that the Code of Conduct of the Civil Guard was adopted in March 2022⁴. For the second part of the recommendation, the Civil Guard refers to a Ministerial Order, which is being drafted with the participation of professional associations, and which will further complement the Code of Conduct. Different awareness raising actions have been carried out (dissemination posters, updating of training and instruction plans, training activities, etc.). The Personnel Command (Mando de Personal) leads the process of implementation of the Code. The Police refers to different legislative instruments but

⁴ Royal Decree 176/2022 of 4 March 2022 on the Code of Conduct of the Civil Guard, published in the Official Journal on 5 March 2022.

does not provide any update on concrete practical measures for implementation of its Code.

89. GRECO welcomes the adoption of the Code of Conduct of the Civil Guard. This meets the first part of the recommendation. As to the second part of the recommendation, GRECO takes note of the work in progress in the Civil Guard to provide for practical measures for implementation of the Code. The Police has not given any evidence in this respect.

90. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiii

91. *GRECO recommended reassessing the system of entry quotas for the offspring of the Civil Guard.*

92. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO welcomed the developments reported to promote women recruitment in the Civil Guard, but it noted that no reassessment of the offspring entry quotas had been done.

93. The authorities of Spain report on the measures taken by the Civil Guard to favour the access of women in the force and to better adhere to the principle of gender equality. The Civil Guard Personnel Law is currently being amended and a re-evaluation of the fixed quota reserved at the Civil Guard School for offspring of the Civil Guard is underway.

94. While GRECO welcomes the developments reported to promote women recruitment in the Civil Guard (see also recommendation xv), it cannot see that any action has effectively materialised, or provided a tangible outcome, to address recommendation xiii.

95. GRECO concludes that recommendation xiii remains not implemented.

Recommendation xiv

96. *GRECO recommended strengthening the current vetting processes in the Police and the Civil Guard and introducing vetting at regular intervals during its staff members' careers.*

97. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO regretted the lack of any development regarding vetting and re-vetting processes in the Police and the Civil Guard.

98. The authorities of Spain indicate that steps have been taken to enhance vetting in the Police. IAU carries out regular vetting through the professional career of its staff. Random and unannounced checks are carried out on officers in general and, in particular, on those who occupy sensitive positions. IAU participates in the European initiative Internal Criminal Investigation Network (ICIN), which aims to identify and

exchange good practices within the organisations responsible for combatting corruption in police organisations.

99. IAU is working on two projects. Firstly, in collaboration with the Strategic Planning and Coordination Department, consideration is given to implementing an early warning system that, by cross-referencing intelligence, background and human resources databases, allows the early detection of links, behaviours and irregular relationships of Police staff. This will be done through a two-step monitoring: (i) based on artificial intelligence, through which the system would warn of the existence of a relationship between a police officer and a person under investigation; (ii) the human factor would come into play, carrying out the appropriate checks to distinguish false premises from those that merit checks that are more rigorous. Secondly, consideration is being paid to collaboration between IAU and the National Police Training and Development Department in the examination of the profile of candidates before they join the force and the design of specific programmes to test students during their training to strengthen the integrity requirements that are presumed for all police officers. This programme would be based on the so-called "integrity tests" aimed at detecting and eliminating profiles unsuitable for the Police.
100. The Civil Guard includes a psycho-technical test, both for admission to the training centres and to the specialisation courses, in order to assess intellectual aptitudes and to draw up a personality profile. Candidates undergo a personal interview to compare the tests results and to assess their suitability for the performance of professional duties, compliance with rules and principles, as well as with institutional values. Within the Civil Guard, the Personal Qualification Report of the Civil Guard (IPEGUCI) evaluates, on a periodic basis, a series of predetermined categories that must inspire the professional performance of all members of the Corps. The concepts or competencies rated are divided into the following categories: a) competencies of a professional nature; b) competencies of a personal nature; c) professional prestige.
101. GRECO welcomes the measures taken by the Police to strengthen its vetting processes in line with the recommendation; some of the initiatives reported are still under consideration and GRECO looks forward to receiving further updates regarding their concrete implementation. As for the Civil Guard, it has referred to entry tests and to performance appraisals. These processes were already in place at the time of the Fifth Round Evaluation Report. GRECO notes that this is something different to the vetting and re-vetting processes envisaged by recommendation xiv.
102. GRECO concludes that recommendation xiv has been partly implemented.

Recommendation xv

103. *GRECO recommended that the Police and the Civil Guard review their career-related internal processes (recruitment, promotions, discretionary appointments, appraisals/merit systems) with the sole aim of identifying opportunities to improve the recording and publication of rationale in decisions in order to evidence a more objective and transparent approach. In reviewing such processes, particular attention must be paid to the integration of women at all levels in the forces.*

104. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO acknowledged the positive measures undertaken by both the Police and the Civil Guard to promote gender equality. Regarding the objectivity and transparency of career-related internal processes, GRECO recognised the steps made by the Civil Guard to improve regulation in this area. No change had been recorded in the Police.
105. The authorities of Spain stress that the Police is at the forefront in the protection of human rights and the promotion of gender equality thanks to the work of the Department of Human Rights and Equality. Since 2018, there has been a constant increase in the number of women entering the different categories of the Police. Of particular importance is the number of Chief Commissioners, the highest category in the Police, which has increased from 5.88% in 2018 to 14.29% in 2023. From 2018 to 2022, the number of female Chief Superintendents has increased by 143%, the number of female Superintendents by 36% and the number of female Chief Inspectors by 53%. Targeted measures have been taken to ensure that women are recruited in the Police (e.g. elimination of height as an entry requirement) and stay in the forces (e.g. measures to reconcile work and family responsibilities as a result of pregnancy, childbirth, adoption or fostering; participation in internal promotion processes in situations such as leave to care for family members, due to gender violence, due to terrorist violence, or voluntary leave due to family grouping, in order to facilitate work-life balance; recognition of the leave of the parent other than the biological mother for the birth, foster care for adoption, foster care or adoption, which is established for a period of 16 weeks, parental and breastfeeding leave in training, etc.).
106. The First Equality Plan of the Police (2023-2026) was adopted in February 2023. Monitoring of its implementation is to be carried out by a commission with a balanced composition of representatives from the administration and trade union organisations. Targeted measures, through the development of protocols of action, have also been taken to deter sexual harassment, harassment based on gender, orientation and sexual identity, as well as gender violence. A confidential counsellor is to advise the victim, and a special conciliation procedure is devised (this is a voluntary instrument in favour of the person who considers him/herself a victim of sexist or discriminatory behaviours). The general principles that apply in this area are, among others, zero tolerance, equality, prevention, information, interest of the victim, fair treatment and restricted access, in order to guarantee the protection of the victim.
107. As to career-related internal processes, the authorities consider that the legislation already in place guarantees the requirements of objectivity and transparency recommended by GRECO.
108. The Civil Guard indicates that, pursuant to General Order 2/2022, measures have been taken to facilitate access to the information contained in the files and the formats used (*fichas de méritos*). General Order 3/2023 introduces specific criteria for the assessment of merits and skills in the evaluation processes of the Civil Guard.
109. GRECO salutes the targeted measures taken by both the Police and the Civil Guard to promote gender equality at all levels in the forces, as recommended. More, however, needs to be done regarding transparency and objectivity of career-related internal processes. Particular concerns continue to be raised by professional organisations (of

both the Police and the Civil Guard) regarding discretionary appointments and other types of assignments (e.g. secondments), which are not filled out through advertised competitive competition, and which number keeps growing. GRECO considers that, as a general rule, posts (including temporary) must be advertised and filled out through a competitive process. All recruitment decisions must be motivated, including details on the process followed and the criteria applied.

110. GRECO concludes that recommendation xv remains partly implemented.

Recommendation xvi

111. *GRECO recommended (i) reviewing criteria and procedures for the allocation and withdrawal of allowances, bonuses, and other benefits, thereby promoting transparency, consistency and fairness in their application, and (ii) introducing adequate controls and monitoring in this field.*
112. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO acknowledged the steps taken by the Civil Guard to address one aspect of the recommendation, i.e. performance incentives. No developments had been reported by the Police.
113. The authorities of Spain indicate that, according to Law 20/2022 on Democratic Memory, public administrations shall adopt appropriate measures to review *ex officio*, or to withdraw, recognitions that were awarded before the entry into force of the Law and that are manifestly incompatible with democratic values and fundamental rights and freedoms, glorify the military uprising, the war or the dictatorship, and those granted to individuals that were part of the repressive apparatus of the Franco dictatorship. A working group has been set up within the Police to prepare a new regulation updating the criteria and procedures for awarding the various decorations. This new regulation is at an advanced stage. Other than that, the Police does not report any new development (it rather argues that the system which was already described in the Fifth Round Evaluation Reports works efficiently).
114. The Civil Guard refers again to the system of bonus incentives introduced in 2021 (as reviewed by GRECO in its previous Compliance Report) and how this system is operating efficiently in practice, with adjustments in scales being made, as necessary. With regard to limitations and exclusions, the treatment of Civil Guard members whose pregnancy prevents them from performing their duties has been particularly improved. They will now receive one hundred percent of the modality they received previously, in order to prevent pregnancy from leading to a significant reduction in salary. Similarly, the remuneration for staff who attend an authorised course has been significantly improved in order to encourage professional development. Compensation for overtime is limited to overtime worked during the reference period and, as a novelty, to extraordinary services provided instead of an additional singular rest or on a public holiday. In any case, these services will be voluntary, of a minimum duration equivalent to the rest they replace, provided according to operational criteria and with a fixed remuneration. Finally, with regard to transparency, starting in December 2022 representatives of the professional associations within the Civil Guard Council were informed on the level of

implementation of the above-mentioned remuneration. The periodicity of this information is semi-annual.

115. GRECO notes that the Police is currently reviewing the applicable rules for decorations. The Civil Guard has also provided additional details on how performance and overtime incentives operate in practice. While GRECO appreciates that some action has been taken by both agencies, such action remains limited and does not encompass all different components of the recommendation.

116. GRECO concludes that recommendation xvi remains partly implemented.

Recommendation xvii

117. *GRECO recommended that the Police and the Civil Guard carry out a study concerning risks of conflicts of interest in service and post-employment (including the top level), and develop, thereafter, more targeted regulations and guidance in this domain.*

118. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO regretted the lack of any material development in this field.

119. The authorities of Spain indicate that the systems of incompatibilities of the National Police and Civil Guard are still under revision. Each organisation has drafted its own regulations, which are yet to be adopted.

120. GRECO notes that there is no evidence that the Police and the Civil Guard had carried out a study concerning risks of conflicts of interest in service and post-employment, or that they would do so in the future. For GRECO, this is a missed opportunity as such a study could better inform risk assessment processes. That said, the Police and the Civil Guard are amending their respective rules on incompatibilities to further strengthen the system, which is a positive step in the direction of the recommendation. Nothing has been reported regarding guidance. GRECO has already underlined the importance of providing guidance regarding ethics and integrity requirements for the Police and the Civil Guard (see also recommendation xii); this acquires special significance for the issue of incompatibilities, and more generally conflict of interest prevention and management, once the new rules are in place.

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

Recommendation xviii

122. *GRECO recommended that a full review of current whistleblower procedures within the Police and the Civil Guard is undertaken, with a primary aim of strengthening the protection of the true identity of whistleblowers and focusing more on the substance of the information provided.*

123. It is recalled that this recommendation was not implemented in the Compliance Report. No developments had taken place in this area.

124. The authorities of Spain refer again to the applicable witness protection rules. Moreover, in case of an internal complaint, the protection of the whistleblower is guaranteed by the police officer(s) to whom he/she reports. His/her identity can be preserved until the case is resolved. According to the authorities, to date, there have been no situations in which this protection has been jeopardised or compromised. In the event of threats or coercion against the complainant, the case would be referred to the criminal justice system.
125. The authorities further add that, with the recently adopted Law 2/2023 on Whistleblower Protection, the Police and the Civil Guard will need to develop their whistleblower reporting and protection systems in the light of the new legislative provisions. In this connection, the Ministry of the Interior established the internal information system at the beginning of June 2023, publishing the main documents applicable to both organisations. The Civil Guard has appointed a person responsible for the internal information system for the corps and is currently studying the needs and parameters required to implement it internally. As mentioned previously (see paragraph 18), all ministries, including the Ministry of Interior, have implemented internal information systems within the framework of Law 2/2023.
126. GRECO welcomes the adoption of Law 2/2023 on Whistleblower Protection. GRECO notes that work is under way to give effect to its provisions in the Police and the Civil Guard, including through the development of internal whistleblowing systems. Effective whistleblower implementation arrangements are key, particularly in law enforcement, to enable a safe environment to report wrongdoing and to protect whistleblowers from retaliation. Additional steps are expected in this respect in both the Police and the Civil Guard; GRECO looks forward to their effective completion.
127. GRECO concludes that recommendation xviii has been partly implemented.

Recommendation xix

128. *GRECO recommended reviewing the disciplinary regime of the Police and the Civil Guard, with a view to strengthening its transparency, objectivity, and proportionality, among other things and in particular, by excluding any possibility of a supervisor deciding on discipline matters single-handedly.*
129. It is recalled that this recommendation was not implemented in the Compliance Report. GRECO noted the lack of any development in this area.
130. The authorities of Spain refer again to the disciplinary systems for the Police and the Civil Guard which were already in place at the time of the Fifth Round Evaluation visit. They stress that the possibility of a supervisor deciding on discipline matters single-handedly only applies to minor offences, and even in these cases, procedural safeguards exist. Appeals are always possible before the court.
131. GRECO regrets the absence of any development regarding discipline matters. The authorities do not recognise this as a problematic area and thus they do not consider there is a real need for improvement. However, the fairness and proportionality of

disciplinary processes continue to be a main source of concern for the profession itself with numerous court decisions and media reports on the matter.

132. GRECO concludes that recommendation xix remains not implemented.

III. CONCLUSIONS

133. **In view of the foregoing, GRECO concludes that Spain has not implemented satisfactorily or dealt with in a satisfactory manner any of the nineteen recommendations contained in the Fifth Round Evaluation Report.** Of the remaining recommendations, thirteen have been partly implemented and six have not been implemented.
134. More specifically, recommendations ii, iii, iv, v, viii, ix, xi, xii, xiv, xv, xvi, xvii and xviii have been partly implemented and recommendations i, vi, vii, x, xiii and xix have not been implemented.
135. GRECO welcomes the adoption of a holistic integrity framework (SIAGE) for central administration, which is based on risk assessment, code of ethics, integrity and conflict of interest provisions, training, internal reporting channels, quality management and an evaluation process. It is now for each public body to design its own integrity system upon the aforementioned model. GRECO calls on the authorities to pay closer attention to the particular situation of PTEFs (including political advisors) and the specific risk areas of conflicting interests and corruption that PTEFs face in the development of their functions. Some elements of the broader integrity reform may cover such risks, but GRECO expects a more tailor-made approach. Financial disclosure can benefit from further adjustments, and greater itemisation, for due transparency purposes. Regulating lobbying also remains an outstanding issue. Likewise, the system for criminal responsibility of members of government (so-called *aforamiento*) is due for revision.
136. GRECO acknowledges the efforts made by the authorities to advance the implementation of access to information requirements, including through the recent ratification of the Council of Europe Convention on Access to Official Documents (CETS 205). While recognising certain progress on this front, GRECO awaits the effective adoption of the anticipated amendments to Law 19/2013 on Transparency, Access to Information and Good Governance. Efforts have been made to sustain the resources of the Office for Conflicts of Interest and the Council for Transparency and Good Governance; more needs to be done regarding their independence and powers.
137. With respect to law enforcement agencies (Police and Civil Guard), some progress has been recorded, albeit limited. GRECO particularly values the comprehensive initiatives undertaken in recent years to promote gender equality and hopes that some equivalent targeted action is also developed on the anti-corruption front. In this connection, key improvements lie ahead: a dedicated anticorruption strategy is yet to be devised, codes of conduct must be coupled with practical measures for their implementation, targeted action must follow to assure transparency, objectivity, and fairness of decision-making processes.

138. Overall, the response of Spain to the recommendations issued in the Fifth Round Evaluation Report has been insufficient resulting in a poor level of implementation.
139. In the light of the foregoing, GRECO notes that Spain is not in sufficient compliance with the recommendations contained in the Fifth Round Evaluation Report within the meaning of Rule 31 revised bis, paragraph 10 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 revised, paragraph 2 (i) and asks the Head of delegation of Spain to provide a report on the progress in implementing the outstanding recommendations, i.e. all recommendations (i to xix), by 31 December 2024.
140. In addition, in accordance with Rule 32 revised, paragraph 2, sub-paragraph (ii.b), GRECO invites the President of the Statutory Committee to send a letter – with a copy to the Head of delegation of Spain – to the Permanent Representative of Spain to the Council of Europe, drawing attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
141. GRECO invites the authorities of Spain to authorise as soon as possible the publication of this report, to translate it into the national language and to make the translation public.