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# FIFTH EVALUATION ROUND

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

## COMPLIANCE REPORT

# AUSTRIA



Adopted by GRECO  
at its 98<sup>th</sup> Plenary meeting (Strasbourg, 18-22 November 2024)



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



## **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 Austrian authorities to implement the recommendations made in the [Fifth Round Evaluation Report on Austria](#) which was adopted by GRECO at its 92<sup>nd</sup> plenary meeting (28 November – 2 December 2022) and made public on 1<sup>st</sup> March 2023, following authorisation by Austria.
3. As required by GRECO’s Rules of Procedure,<sup>1</sup> the Austrian authorities submitted a Situation Report containing information on measures taken to implement the recommendations in the Evaluation Report. That report was received on 25 June 2024 and served as a basis for this Compliance Report.
4. GRECO selected the United States of America (in respect of top executive functions in central governments) and Montenegro (in respect of law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Michelle MORALES, on behalf of the USA, and Aleksandra VOJINOVIĆ, on behalf of Montenegro. They were assisted by GRECO’s 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 addressed 19 recommendations to Austria 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 (i) the legal status, recruitment, responsibilities and obligations of secretaries general and ministerial advisors (including ad hoc temporary advisors) be regulated (also in relation to instructions they are entitled to make to civil servants and contractual employees); (ii) their numbers, names, functions and pay bands, as well as information on ancillary activities are made public; and (iii) they are*

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<sup>1</sup> 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.

*subjected to the highest standards of conduct through appropriate rules on conflicts of interest, financial disclosure and the use of confidential information.*

8. The Austrian authorities indicate that most of parts (i) and (ii) of this recommendation in respect of secretaries general and ministerial advisors are dealt with by existing legislation (i.e. secretary generals' duties and obligations include ministry operations and overseeing section heads (their names are published), see Section 7, paragraph 11 of the Federal Ministries Act of 1986, they are subject to the Civil Servants Employment Act of 1979, or the Act on Contractual Public Employees of 1948 regarding further obligations and their fixed salary is published in accordance with Section 31(2) of the Civil Servants' Remuneration Act of 1956 or Section 74(2) of the Act on Contractual Public Employees of 1948). Ministerial advisors are subject to the official duties regulated in the Civil Servants Employment Act of 1979 or the Act on Contractual Public Employees of 1948. The authorities also refer to the Budget Accompanying Act of 2018 (Federal Law Gazette I No. 30/2018), which clarifies secretaries generals' responsibilities and status as superiors in their respective ministries and their contracts, service and salaries as well as that of ministerial advisors. The authorities also indicate that names and further data of the secretaries general are published.<sup>2</sup>
9. With respect to part (iii) of this recommendation, the authorities explain that secretaries general and ministerial advisors are civil servants and, as such, are subject to the Civil Servants Employment Act of 1979 or the Act on Contractual Public Employees of 1948 and to the Code of Conduct („*Die VerANTWORTung liegt bei mir*“ (the responsibility rests with me)). The authorities also refer to the aim of further developing rules on conflicts of interest under the Action Plan for the National Anti-Corruption Strategy for 2023-2025 (No. 4.9 of the Action Plan<sup>3</sup>).
10. GRECO takes note of this information and, notably, welcomes the Action Plan for the National Anti-Corruption Strategy for 2023-2025. Regarding part (i) of this recommendation, GRECO notes that the authorities refer to legislation already taken into account in the Evaluation Report (see paragraphs 33-47). GRECO underlines that for both secretaries general and ministerial advisors, a grey area within the law and regulations remains with respect to their legal status, tasks and responsibilities. In addition, they are recruited from either the civil service or from the private sector. In the latter case, they tend to remain in the civil service after the end of the minister's mandate through a fast-track recruitment process. This type of appointment lacks transparency. This has not yet been addressed.
11. For part (ii), GRECO notes that no progress has been made with respect to making public the numbers of both secretaries general and ministerial advisors, names of ministerial

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<sup>2</sup><https://www.bundeskanzleramt.gv.at/bundeskanzleramt/organisation-bundeskanzleramt/sektionen/der-generalsekretar-im-bundeskanzleramt.html>; <https://www.bmeia.gv.at/ministerium/der-generalsekretaer>; <https://www.bmaw.gv.at/Ministerium/Generalsekretaerin.html>; <https://www.bmbwf.gv.at/Ministerium/GS.html>; <https://www.bml.gv.at/ministerium/aufgaben-struktur/generalsekretaer/generalsekret%C3%A4r.html>.

<sup>3</sup> 4.9 - Further development of the regulations on conflicts of interest (Ministry for Arts, Culture, Civil Service and Sport (BMKÖS)) - Revision of the relevant provisions - Submission of the government bill on the revised provisions by 2025.

advisors, functions of ministerial advisors, pay bands of both secretaries general and ministerial advisors and information on ancillary activities of secretaries general and ministerial advisors working in the system.

12. For part (iii) of this recommendation, GRECO refers to the Evaluation Report, which indicates that secretaries general are subject to civil service rules, however due to the fact that these officials either participate directly in decision-making regarding public policies or have a decisive influence in their development, it would be reasonable for them to be subject to equivalent requirements as those applicable to ministers and state secretaries with reference to the rules of financial disclosure, incompatibility, ineligibility, and more generally, conflicts of interest (see paragraph 41 of the Evaluation Report). The same applies to ministerial advisors (see paragraph 44 of the Evaluation Report). GRECO welcomes that one action under this Action Plan is to further develop conflicts of interest rules. It looks forward to receiving more information on this in due course.
13. GRECO concludes that recommendation i has not been implemented.

#### **Recommendation ii**

14. *GRECO recommended that (i) the new action plan of the National Anti-Corruption Strategy comprises measures to prevent corruption and increase integrity with respect to persons entrusted with top executive functions, including the performance of integrity checks as part of their appointment; (ii) the compliance management departments of the Federal Chancellery and the ministries as a rule perform corruption risk management in relation to persons entrusted with top executive functions; and (iii) the system of officers performing tasks related to corruption prevention be formalised and further developed with a view to ensure its efficiency and consistency in all ministries.*
15. The authorities reiterate that, for part (i) of the recommendation, Section 3 (4) of the Act on Contractual Public Employees of 1948 provides that a criminal record check shall be carried out immediately before each new appointment. The authorities also report that the National Anti-Corruption Strategy and the National Anti-Corruption Action Plan were adopted by the Council of Ministers on 11 October 2023. Measures to prevent corruption and promote the integrity of persons with top executive functions (PTEFs) have been incorporated and defined in the National Anti-Corruption Action Plan: Integrity Management – Promoting Behaviour with Integrity, Point 1.32 (Objective: "Increase integrity of persons entrusted with top executive functions (PTEF)"; Measures: "Promote awareness-raising on the topic of compliance through training and information measures").
16. The National Anti-Corruption Action Plan also aims to enhance the effectiveness of integrity checks for executive personnel (No. 4.8)<sup>4</sup>. In this respect, the Federal Chancellery has implemented measures to prevent corruption and included them in the

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<sup>4</sup> 4.8 – Ensuring the integrity of executives (Ministry for Arts, Culture, Civil Service and Sport) – Further development of integrity checks for executives by revising the relevant provisions – Submission of the government bill on the revised provisions by 2025.

National Anti-Corruption Action Plan, one of which is a mandatory on-site training for all employees, including all executive functions (No. 1.3)<sup>5</sup>. The authorities then refer, *inter alia*, to an array of already existing compliance trainings for employees of the Federal Chancellery and in the ministries as well as to already existing conflicts of interest checks with respect to secondary activities of PTEFs. The authorities indicate, however, that with respect to the implementation of integrity checks, a number of difficulties have been encountered that need to be addressed.

17. The authorities report that, for part (ii) of the recommendation, the authorities refer to risk managements tools developed by all 12 ministries. For example, the Ministry for Arts, Culture, Civil Service and Sport regularly undergoes a risk “self-evaluation” assessment, which was updated in May 2024. It is carried out by department managers (i.e. an organisational unit) and aims to involve all civil servants within the organisational unit. Specific focus is on corruption prevention, compliance and integrity so as to map the risk landscape of the Ministry.
18. The Compliance Division of the Federal Chancellery also regularly conducts a comprehensive, qualitative and quantitative corruption risk analysis. Therefore, all departments of the Federal Chancellery are evaluated, including all PTEFs.
19. In the Ministry of the Interior, risk management is decentralised. Operational risk management is carried out by the relevant organisational units. The creation of guidelines, principles and the coordination of the use of risk management and, in particular, the framework for the uniform implementation of risk management in the Ministry of the Interior and its subordinate agencies, is coordinated centrally by a separate organisational unit. A new policy decree on risk management in this Ministry will form the basis for measures in this area.
20. In the Ministry of Justice, a Compliance Committee has been set up, composed of a representative from the authorities and representatives from professional associations and staff. It carries out regular compliance-risk analyses and prepares the annual compliance programme.
21. In the Ministry for European and International Affairs, there already is a broad range of measures to prevent and reduce corruption risks. The implementation of a compliance management system is currently under negotiation.
22. In the Ministry of Labour and Economy, a general corruption risk management system is currently being implemented for all employees (including PTEFs) in the “Economy”

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<sup>5</sup> 1.3 – Establishment of a pool of integrity officers trained by the Federal Bureau of Anti-Corruption in the central office and subordinate departments – (Ministry of Labour and Economy (economy sector) – Training of all v1 employees responsible for compliance within the Compliance department as integrity officers; Training of other v1 employees in the sections of the ZL and subordinate departments as multipliers for the topic of compliance; Planning and organisation of networking meetings for internal IBs. Percentage of v1 employees responsible for compliance and trained integrity officers in the compliance department: 100%; Number of trained integrity officers in the ZL: 7; Number of trained integrity officers in the subordinate and associated departments: 3; Number of networking meetings organised: ≥ 1.

section of the Ministry. The risk-management system of the “Labour” section of the Ministry does not currently include PTEFs.

23. In the Ministry of Defence, risk awareness and periodical risk mapping in respect of PTEFs and their activities will be a crucial part of a general risk management strategy. This will be added/integrated into the existing risk assessment and management, where possible.
24. In the Ministry of Agriculture, Forestry, Regions and Water Management, a broad range of measures are in place to prevent and reduce corruption risks, which are based on a compliance management strategy. Under this strategy, a compliance risk analysis is currently being developed and consideration is being given to analysing the risk in relation to PTEFs.
25. In the Ministry for Social Affairs, Health, Care and Consumer Protection, an internal training course was organised on 23 May 2024, for the highest management level (including cabinet staff) by the Compliance Department and carried out by the Federal Anti-Corruption Bureau. The authorities indicate that this type of training is open to PTEFs and that training will be held regularly once a year (at least) for the cabinet staff starting from 2025.
26. In the Ministry of Education a new risk assessment (audit) was completed in August 2024, which will now be followed by risk evaluations in individual departments, to be completed by the end of 2025.
27. In the Ministry of Finance, a risk and compliance management system is in place, under which training sessions and material are made available to all employees, including PTEFs. At recruitment, all employees are informed about their legal obligations. Officers involved in integrity-related matters may participate in relevant training sessions on a regular basis. Attention is drawn to any new material on professional ethics, which is regularly published on the Ministry’s intranet site.
28. In the Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology, approximately 200 employees, including Cabinet staff (i.e. ministerial advisors) and the Office of the Secretary General, have taken part in training sessions since 2023. An additional training session is planned for Cabinet staff.
29. The authorities report that, for part (iii) of the recommendation, on 1 November 2023, compliance officers were appointed in all directorates general and agencies of the Ministry of the Interior. In December 2023, all of them received training on the National Anti-Corruption Strategy, the National Anti-Corruption Action Plan and on the criminal law on corruption, by the Chief Compliance Officer of the Ministry of the Interior and the Federal Bureau of Anti-Corruption. Together with the compliance officers in the Regional Police Directorates of the nine Austrian regions, there is currently a total of 30 compliance officers in the Ministry of the Interior. They are the contact points for all employees in the respective directorates general, agencies etc. Compliance focuses on prevention, hence on the strengthening of compliance awareness and the protection of

staff by clarifying the legal framework (rights and obligations under the Civil Servants Employment Act of 1979/Act on Contractual Employees of 1948), the values of the Ministry of the Interior, by providing individual counselling (on request) and recommendations on topics contained in the Ministry of the Interior's Code of Conduct.

30. The Chief Compliance Officer also participates in regular meetings of the ministries' compliance officers at the Federal Chancellery. In addition, to facilitate the communication process between the Federal Bureau of Anti-Corruption, the ministries and the Federal Chancellery, "National Anti-Corruption Strategy coordinators" have been appointed in each ministry and in the Federal Chancellery. These are the contact persons for the evaluation of individual measures contained in the National Anti-Corruption Action Plan of their ministries and also fulfil a quality assurance task.
31. GRECO takes note of this information. Regarding part (i) of this recommendation, GRECO welcomes that the National Anti-Corruption Strategy and its National Action Plan have been adopted in October 2023 comprising measures to prevent corruption and increase integrity for PTEFs. These are yet to be implemented. Moreover, performance of integrity checks as part of PTEFs' appointment has not yet been dealt with.
32. GRECO notes that for part (ii), all ministries either carry out risk "self-evaluations" to map the risk landscape in their ministries or carry out regular qualitative and quantitative comprehensive corruption analyses while others still have decentralised risk management. This part of the recommendation has been dealt with in a satisfactory manner although not all ministries cover PTEFs in their risk management. In this respect, GRECO encourages the authorities to ensure that all ministries introduce corruption risk management with respect to PTEFs.
33. For part (iii), GRECO welcomes that compliance officers have been appointed in all the ministries. It also welcomes the creation of the National Anti-Corruption Strategy coordinators, who have been appointed in each ministry and in the Federal Chancellery. This part of the recommendation has, therefore, been fully addressed.
34. GRECO concludes that recommendation ii has been partly implemented.

### **Recommendation iii**

35. *GRECO recommended that a code of conduct for ministers and other persons entrusted with top executive functions be adopted, published, and complemented by a system for providing guidance and confidential counselling regarding conflicts of interest and other integrity related matters (gifts, outside activities, third party contacts and the handling of confidential information), and coupled with a credible and effective mechanism of supervision and enforcement.*
36. The authorities report that one of the actions under the National Anti-Corruption Action Plan is to complement the Code of Conduct for Preventing Corruption in the Civil

Service<sup>6</sup>, with provisions that are *specifically* applicable to secretaries general and ministerial advisors (No. 1.8)<sup>7</sup>.

37. The authorities also report that the Compliance Division of the Federal Chancellery is in the process of drafting a Code of Conduct for members of the Federal Government, which covers conflicts of interest, incompatibilities, lobbying, and risk assessment. This draft Code is in its early stages and must still undergo presentation and discussion at higher managerial levels. The timeline for its adoption is therefore difficult to predict. The authorities underline, however, that preventive anti-corruption measures set out in the draft Code, are also covered in the training provided by the Compliance Division of the Federal Chancellery for PTEFs.
38. GRECO takes note that, under the National Anti-Corruption Action Plan, the existing Code of Conduct for Preventing Corruption in the Civil Service (see paragraphs 61-67 of the Evaluation Report) will be supplemented by provisions specifically applicable to secretaries general and ministerial advisors. It also takes note that a draft Code of Conduct for members of the Federal Government is in the pipeline and is looking forward to receiving the text as soon as it is ready. However, this is not yet enough to consider this recommendation as even partly implemented.
39. GRECO concludes that recommendation iii has not been implemented.

#### **Recommendation iv**

40. *GRECO recommended (i) adopting freedom of information legislation which enshrines the principle of transparency held by public authorities and guarantees the general right to access documents, in line with the standards of the Council of Europe Convention on Access to Official Documents (CETS 205); (ii) that information of public interest is published ex officio on the websites of the government and ministries; and (iii) that effective oversight and enforcement mechanisms are established to ensure proper implementation of the law.*
41. The authorities report, with respect to part (i) of this recommendation, that although Austria is not a party to the Convention on Access to Official Documents (Tromsø Convention), a legal reform to adopt freedom of information legislation was passed by the National Council in January and enacted on 26 February 2024 (F-LG I No.5/2024 – the reform will enter into force in September 2025). The reform will abolish official secrecy under the constitutional law and standardises a proactive/*ex officio* publication obligation for public authorities<sup>8</sup>. It will also introduce a constitutionally guaranteed right (fundamental right) of access to information held by administrative bodies (paragraph 2). Information can also be requested from foundations, funds, institutions and companies that are majority-owned by the public sector and are therefore audited

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<sup>6</sup> [Die VerANTWORTung liegt bei mir](#) (the responsibility rests with me) adopted in 2020, which applies to all public-sector employees, which includes secretaries general and ministerial advisors.

<sup>7</sup> 1.8 – Code of Conduct specifically for Secretary General and Cabinet staff – (Ministry for Arts, Culture, Civil Service and Sport) – Addition to the Code of Conduct "The RESPONSIBILITY rests with me" for General Secretaries and Cabinet employees – Publication of the supplement to the Code of Conduct.

<sup>8</sup> See new Article 22a, paragraph 1 of the Federal Constitutional Law.



by the Court of Audit (paragraph 3). Administrative bodies, bodies of ordinary justice, administrative courts, the Supreme Administrative Court, the Constitutional Court as well as the National Council, the Federal Council, the Court of Audit and the Ombudsman Board must proactively (*ex officio*) publish information of general interest on their websites. Municipalities with a population of under 5 000 are exempt from this requirement in order to maintain their administrative capacity. However, they are required to respond to requests for information (in exercising the fundamental right to access information).

42. The entire access to information procedure has been accelerated and streamlined to make it as direct as possible and exempt from fees and charges. It must generally be granted within four weeks (previously eight weeks). If the information is not provided, an administrative decision must be issued within two months (previously six months). In the event of an appeal against the decision, the administrative court must also decide within two months (previously six months). In the event of an alleged violation of the fundamental right to access information, an appeal to the Constitutional Court can be made.
43. The authorities report that, with respect to part (ii) of this recommendation, according to new Article 22a paragraph 1 F-LG in conjunction with implementing provisions in the Freedom of Information Act, public authorities are required to publish information of general interest on their websites on their own initiative (*ex officio*), if none of the constitutionally defined exceptions apply (e.g. data protection law).
44. The authorities report that, with respect to part (iii) of this recommendation, implementation circulars to inform those obliged to provide information are in preparation. The responsible regional authority will offer training for its employees. The data protection authority is to advise and support the bodies and institutions obliged to provide information by making guidelines available and by offering further training. It should also evaluate the application of this Law and inform the public<sup>9</sup>. The enforceability of the new (fundamental) right is guaranteed by the obligation to issue a decision for a request (when negative/or in the event of default) and the resulting legal remedy before the administrative courts or, for data protection matters, before the data protection authority. In both cases, the remedy ultimately lies either before the Constitutional Court – if a violation of the constitutionally guaranteed right of access to information is alleged, or before the Supreme Administrative Court – if other legal violations are alleged. As in the case of other unlawful conduct, additional sanctions apply under service and disciplinary law.
45. GRECO takes note of these positive steps. Regarding part (i) of this recommendation, GRECO welcomes that a dedicated reform that will introduce freedom of information legislation has been enacted. This represents an important step forward that has been in the pipeline for a decade. The reform will abolish official secrecy under the constitutional law and standardises a proactive/*ex officio* publication obligation for public authorities. It will introduce a constitutionally guaranteed right of access to information held by administrative bodies and the entire access to information

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<sup>9</sup> See Section 15 of the Freedom of Information Act.

procedure has been accelerated and streamlined to make it as direct as possible and exempt from fees and charges. Time and experience will prove whether the recently enacted legislative provisions require further adjustments. This part of the recommendation has been met.

46. With respect to part (ii), GRECO notes that public authorities (thus including government and ministries, as recommended) are required to publish information of general interest on their websites on their own initiative (*ex officio*), if none of the constitutionally defined exceptions apply (e.g. data protection law). This part of the recommendation has thus also been met.
47. For part (iii), as regards the enforcement of the law, GRECO takes note that the right of access to information is guaranteed by the obligation on the authority concerned to issue a decision in the event of a negative reply to a request for information. An appeal may be filed against this decision before the competent administrative court, whose decision may in turn be appealed to the Constitutional Court or to the Supreme Administrative Court, depending on the alleged violation. In order to ensure the proper implementation of the law, those obliged to provide information will receive implementation circulars. Employees will also receive training by the responsible regional authority, which will evaluate the application of the new law and inform the public. GRECO therefore concludes that this part of the recommendation has also been met.
48. GRECO therefore concludes that recommendation iv has been implemented satisfactorily.

#### **Recommendation v**

49. *GRECO recommended that the transparency of laws emanating from the government is further enhanced (i) by requiring extended consultation procedure for draft laws as a main rule; (ii) by establishing adequate statutory timelines for consultations; and (iii) by publicly providing the legislative footprint tracking all external interventions from the beginning of the drafting process, including details on the initiator of the proposal.*
50. The authorities reiterate that legal provisions exist on the time frames for the pre-parliamentary consultation procedure, which provide that a consultation period for draft legislation must normally be of six weeks (Section 9 (3) of the Ordinance of the Federal Chancellor on Principles of Regulatory Impact Assessments (2012)). However, if the obligation to grant an appropriate consultation period is not observed, this will not affect subsequent legislative procedures or the validity of the enacted law. The authorities also refer to the (new) parliamentary consultation procedure, which was already referred to in the Evaluation Report (paragraph 77). This procedure has proved to be successful since its entry into force. Between 1 January 2022 and 15 December 2022, 196 723 comments by experts and citizens were submitted during the parliamentary legislative process. Between 1 January 2023 and 15 December 2023, 29 558 comments by experts and citizens were submitted on the Parliament's website. These comments were taken up in a total of 31 381 times.

51. GRECO takes note of this information, notably the new parliamentary consultation procedure, which was already provided and analysed in the Evaluation Report (see paragraphs 77-81). GRECO welcomes this procedure's successful implementation and appreciates the figures provided by the authorities on the experience garnered so far in this domain. GRECO reiterates that the Evaluation Report acknowledges that the practice with respect to public consultations and appropriate timelines has improved. Nevertheless, the fact remains that this is just a possibility, which is not required by law (it does not need to be followed). No new developments have been reported on the particular elements of this recommendation, i.e. the requirement of extended consultation as a main rule (not as a possibility) and providing a legislative footprint.
52. GRECO concludes that recommendation v has not been implemented.

#### **Recommendation vi**

53. *GRECO recommended (i) that detailed rules be introduced on the way in which persons with top executive functions interact with lobbyists and other third parties seeking to influence the government's legislative and other activities; (ii) that sufficient details on these meetings and consultations be disclosed (such as the identity of the person(s) with whom (and on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion), including by making the agendas of persons entrusted with top executive functions easily accessible to the public.*
54. The authorities report that this recommendation will be reconsidered in the new legislative period after the elections in September 2024.
55. GRECO takes note that no steps have yet been taken with respect to this recommendation and that it will be considered following the legislative elections in September 2024. GRECO looks forward to receiving an update from the authorities with respect to this recommendation in due course.
56. GRECO concludes that recommendation vi has not been implemented.

#### **Recommendation vii**

57. *GRECO recommended strengthening the conflict of interests' prevention policy (i) by providing a clear definition of (real, potential, and perceived) conflicts of interest in public service; (ii) by raising the awareness on the practical management of such situations notably by ensuring that persons with top executive functions receive training on how to identify and prevent conflicts of interest and related integrity matters when they take up their duties and at regular intervals; and (iii) by collecting statistics on conflicts of interest situations and measures taken.*
58. The authorities report that, for part (i) of this recommendation, under the Action Plan for the National Anti-Corruption Strategy 2023-2025, one of the actions is to further develop the rules on conflicts of interest (No. 4.9). In addition, a definition of conflicts of interest will be provided in the new Code of Conduct for members of the Federal Government. Developments so far include the Civil Service Employment Regulations

Amendment 2024 to the Civil Servants Employment Act, which was adopted by the National Council on 18 September 2024. It defines conflicts of interest (Section 43 (2)) as follows: *“Civil servants shall consistently act in such a way as to maintain the public’s trust in the objective performance of their official duties. Thereby s/he shall avoid real and perceived conflicts of interest, insofar as this is reasonable. A conflict of interest exists if the civil servant cannot fulfil her or his duties with complete impartiality and objectivity due to existing personal interests (real conflict of interest) or such an appearance could be given (perceived conflict of interest)”*. It also introduces mandatory management training (Section 32).

59. As regards part (ii) of the recommendation, the authorities refer to initiatives developed in several ministries. As examples, they report that the Compliance Division of the Federal Chancellery has published a comprehensive definition of conflicts of interest within the public service on its intranet site. In addition, all PTEFs at the Federal Chancellery will receive training on taking on their duties (and then on a regular basis) by the Compliance Division of the Federal Chancellery. All ministries were asked to introduce this type of training for their respective ministers and state secretaries.
60. Another example is the Ministry of Arts, Culture, Civil Service and Sport, which has expanded its Code of Conduct for Preventing Corruption in the Civil Service to include an Addendum focusing on areas relevant to civil servants in their official duties e.g. receiving gifts or other perks, outside activities. The Federal Academy also offers extensive training and further education programmes in corruption prevention, compliance and integrity, which are also provided in the National Anti-Corruption Action Plan (No. 6.12)<sup>10</sup>.
61. Yet another example is the Ministry of Labour and Economy, which held training courses for PTEFs (in 2023 and 2024) to raise awareness on the practical handling, identification and prevention of conflicts of interest. As part of this training, all PTEFs were given guidelines on corruption prevention with a section on how to deal with conflicts of interest.
62. In the Ministry for European and International Affairs, a special training for PTEFs is currently being prepared. Possible cooperation with the Federal Bureau of Anti-Corruption is under discussion.
63. In the Ministry of Defence, the integration of tailor-made training or tutoring for PTEFs upon taking office, by compliance specialists, and periodically thereafter will be discussed internally. However, regular consultations and requests for advice already take place between PTEFs and directors responsible for compliance matters, where required.

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<sup>10</sup> 6.12 – Training and further education in the areas of corruption prevention, compliance and integrity – (Ministry for Arts, Culture, Civil Service and Sport) – Seminars and online courses in the Federal Academy of Administration's education programme – Participation in the seminars and online courses in the Federal Academy of Administration's education programme; Job-specific in-house seminars at the Federal Academy of Administration (on demand); Participation in the on-demand seminars of the Federal Academy of Administration. At least five different compliance seminars or online offers per year.

64. The Ministry of the Interior's new management development programme ("Successful Leadership. Reflect, Recognise, Develop") is in its pilot phase aimed at 200 employees in management positions. The Federal Bureau of Anti-Corruption is planning to make a contribution to this programme on the topic of corruption prevention. The authorities also refer to a yearly (voluntary) training course on corruption, provided by the Federal Bureau of Anti-Corruption for up to 50 of this Ministry's employees.
65. The authorities provide similar examples for the Ministry of Finance, the Ministry of Agriculture, Forestry, Regions and Water Management, the Ministry of Education, the Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology as well as the Ministry for Social Affairs, Health, Care and Consumer Protection. All provide training for corruption prevention – including conflicts of interest, compliance and integrity for all their employees including PTEFs.
66. As regards part (iii), the authorities cite the example of the Ministry of Arts, Culture, Civil Service and Sport, which has neither statistics on conflicts of interest nor on measures taken, due to a large number of possible contact persons/points within its structure. In a similar manner, the Ministry for European and International Affairs only keeps a record (that can be used for statistical purposes) on conflicts of interest that need to be checked by or are brought to the attention of the compliance department. Whereas the Ministry of Justice, the Ministry of the Interior and the Ministry of Labour and Economy, keep statistics on conflicts of interest.
67. GRECO takes note of this information. Regarding part (i) of this recommendation, GRECO welcomes that an action under the Action Plan for the National Anti-Corruption Strategy 2023-2025 will aim to develop the rules on conflicts of interest (No. 4.9) and that a definition of conflicts of interest will be provided in the Code of Conduct for members of the Federal Government. For part (ii), the authorities have provided examples of raising awareness and training on conflicts of interest and related integrity matters (on taking up duties and at regular intervals) for the 12 ministries, thereby addressing this part of the recommendation. Regarding part (iii), obstacles have been encountered in collecting statistics on conflicts of interest situations and on measures taken, which still needs to be addressed.
68. GRECO concludes that recommendation vii has been partly implemented.

### **Recommendation viii**

69. *GRECO recommended that (i) a proper mechanism of verification of the various disclosure obligations of persons entrusted with top executive functions regarding restricted or prohibited activities be introduced; and (ii) disqualification decisions are made publicly available.*
70. The authorities reiterate, with respect to part (i) of this recommendation, the conditions that apply to secondary activities and explain that further evaluation and adjustments to reflect the recommendations are currently being considered.

71. For part (ii) of this recommendation, the authorities report that since the entry into force of the WZEVI on 1 July 2023<sup>11</sup>, all announcements (including disqualification decisions) previously made in the Official Gazette of the *Wiener Zeitung* must now be published on the electronic federal announcement and information platform ([EVI](#))<sup>12</sup>.
72. GRECO takes note of this information. As regards part (i) of this recommendation, the authorities reiterate the situation already considered in the Evaluation Report, but indicate that adjustments to the current system are being considered. GRECO reiterates its concern for a lack of genuine scrutiny in the detection of conflicts of interest of PTEFs, which constitutes a critical loophole. This undermines the integrity of institutions and has yet to be addressed.
73. As regards part (ii), GRECO welcomes that, under the new WZEVI Act (2023), the Federal Chancellor's announcements regarding companies, members of the federal government and state secretaries (engaged in freelance activities to whom no contracts may be assigned) must now be published on the publicly accessible electronic federal announcement and information platform. This is in line with recommendation viii, part (ii).
74. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix**

75. *GRECO recommended (i) that post-employment rules/restrictions be laid down for ministers and state secretaries and further strengthened for all other persons entrusted with top executive functions, including by providing pertinent cooling off periods; and (ii) that an effective supervision mechanism regarding these rules be established.*
76. The authorities reiterate, for part (i) of this recommendation, that the Civil Servants Employment Act and the Act on Contractual Public Employees, already contain regulations concerning post-employment rules/restrictions. They explain that, despite there being a broad consensus in favour of widening these acts' scope of application, this would require the adoption of several laws, rendering the process complex and lengthy. However, one change has occurred: in July 2024, the National Council has unanimously approved a three-year cooling off period in respect of constitutional court judges i.e. in the three years prior to being appointed as a constitutional court judge, a candidate may not have been a member of government, of a Länder government, of the National Council, of the Federal Council, of a Länder parliament or of the European Parliament or an employee or official of a political party.
77. As regards part (ii) of this recommendation, the authorities report that the Civil Service Employment Regulations Amendment 2024, adopted by the National Council on 18 September 2024, contains a provision aimed at ensuring compliance with the existing provisions on post-employment rules. Civil servants must now be informed about these

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<sup>11</sup> Federal Law Gazette I No. 46/2023.

<sup>12</sup> See Section 6 paragraph 1 of the Federal Act on *Wiener Zeitung GmbH* and the Establishment of a Federal Electronic Announcement and Information Platform (WZEVI Act).

rules in writing and in a verifiable manner (Section 20 (3c) and Section 61 (5) of the Civil Servants Employment Act or Section 30a (3) of the Act on Contractual Public Employees).

78. GRECO takes note that, for part (i) of this recommendation, the authorities refer to the Civil Servants Employment Act and to the Act on Contractual Public Employees, which were taken into consideration in the Evaluation Report (see paragraph 123). No further progress has been reported with respect to post-employment rules regarding ministers and state secretaries. For part (ii), GRECO takes note of the Civil Service Employment Regulations Amendment 2024, under which Civil servants must now be informed about post-employment rules in writing and in a verifiable manner. However, there is no indication of an effective supervision mechanism.
79. GRECO concludes that recommendation ix has not been implemented.

### **Recommendation x**

80. *GRECO recommended further developing the existing financial declaration system for all persons entrusted with top executive functions (also including secretaries general and ministerial advisors) by (i) expanding the categories of assets to be disclosed and providing for greater itemisation; (ii) requiring e-filing; (iii) publishing financial declarations; and (iv) considering including financial information on partners and dependent family members in such declarations (it being understood that the latter information would not necessarily need to be made public).*
81. The authorities report that the Action Plan for the National Anti-Corruption Strategy 2023-2025 already contains an action to further develop the rules on integrity checks (No. 4.8).
82. The authorities also reiterate that the existing rules on financial declarations include reporting requirements as well as additional obligations, such as restrictions on public procurements awarding contracts for the supply of goods and services to businesses that are owned by certain members of the government. Furthermore, reporting requirements extend to members of the National Council and members of the Federal Council. In addition, the members of these bodies are subject to a Code of Conduct published in 2021<sup>13</sup>. The adoption of several laws would be required to further develop the existing financial declaration system for all PTEFs, due to the complex system of competences and stakeholders. This would be a difficult and time-consuming exercise.
83. GRECO notes that nothing new has been added to what was already described in the Fifth Round Evaluation Report. GRECO takes note that the authorities have the intention of dealing with this recommendation, but that there are currently no concrete developments.
84. GRECO concludes that recommendation x has not been implemented.

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<sup>13</sup> [Verhaltensregeln und Praxisleitfaden für ParlamentarierInnen \(Rules of conduct and practical guidelines for parliamentarians\).](#)

### **Recommendation xi**

85. *GRECO recommended (i) ensuring substantive verifications of financial declarations of persons entrusted with top executive functions; and (ii) that appropriate resources, auditing capabilities and enforcement measures be provided for this purpose.*
86. The authorities report that the Action Plan for the National Anti-Corruption Strategy 2023-2025 contains an action to further develop the rules on integrity checks (No. 4.8). Further development of the financial declaration system will include appropriate resources, auditing capabilities and enforcement measures.
87. GRECO notes that no new concrete development has been reported in this area. The authorities say that they intend to deal with this recommendation, but this has yet to occur.
88. GRECO concludes that recommendation xi has not been implemented.

### **Recommendation xii**

89. *GRECO recommended ensuring that criminal investigations of persons entrusted with top executive functions suspected of having committed corruption related offences is not hampered by undue interference, by providing for sufficient resources and a legal framework that would secure the operational independence of the Central Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA), including by revising the use of regular reporting to the Ministry of Justice.*
90. The authorities reiterate that the working group set up in 2021, submitted a comprehensive [final report](#) in September 2022 already taken into consideration in the Evaluation Report (see paragraph 140). The final report's recommendations include the abolition of the right of the Minister of Justice to issue instructions in individual criminal cases for which the Constitution needs to be amended. This can only be done by a two-thirds majority, which requires a broad consensus among parties represented in Parliament. Negotiations regarding the reform are still ongoing. However, no political agreement has been found so far on key aspects of the reform within the government coalition and only internal technical preparations for a draft have taken place, which currently await further political guidance.
91. As regards reporting obligations, the last revision of the decree on reporting obligations entered into force on 10 December 2023. It further clarifies and simplifies some of the already existing reporting obligations in order to ensure their uniform application by the (Senior) Public Prosecutors' Offices. A further reduction in regular reporting obligations by the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (as well as other Public Prosecutors' Offices) to the Senior Public Prosecutor's Office and to the Ministry of Justice, can only be achieved by amending the Public Prosecutors Act. However, in this respect, the authorities underline that the reporting obligations primarily serve to ensure the high quality of the prosecutorial work. They only cover a very limited number of criminal cases i.e. those of special public interest.



92. The authorities explain that, to avoid any appearance of political influence on the work of the (Senior) Public Prosecutor's Offices, the Minister of Justice established a Council of Directives (*Weisungsrat*). The latter is an independent advisory board attached to the General Prosecutor's Office tasked with providing non-binding opinions on all criminal cases involving the participation of the Minister of Justice.
93. Should the Minister of Justice not wish to comply with the Council of Directives' statement, s/he must provide a justification, which is included in the annual directive report to Parliament. The "subject-specific" supervision and support of the Senior Public Prosecutors' Offices and the Ministry of Justice, which have to submit certain criminal cases to the Council of Directives for a statement, and the associated transparency, ensure that there is no undue influence or interference in the investigative work of the Public Prosecutors' Offices (including the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption).
94. GRECO takes note of this information, much of which has already been taken into consideration in the Evaluation Report (see notably paragraphs 139-140). GRECO also notes that the authorities' focus is mainly on the reporting duties to the Ministry of Justice. Notably, that abolishing the right of the Minister of Justice to issue instructions in individual criminal cases will require a constitutional amendment. GRECO takes note that, in the meantime, the decree on reporting obligations has been revised (entered into force in December 2023), clarifying and simplifying existing reporting obligations to ensure uniform application by the (Senior) Public Prosecutors' Offices.
95. GRECO also takes note that further reductions in reporting obligations would require amending the Public Prosecutors Act. In this respect, GRECO would like to reiterate that it is crucial that safeguards be in place for corruption investigations to be carried out without any political or other undue influence. In addition, GRECO notes that the issue of providing for sufficient resources and a legal framework to secure the operational independence of the Central Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA) has not been addressed.
96. GRECO notes that overall, some progress has been made. However, more needs to be done to fully meet this recommendation, as explained above.
97. GRECO concludes that recommendation xii has been partly implemented.

*Preventing corruption and promoting integrity in law enforcement agencies*

**Recommendation xiii**

98. *GRECO recommended (i) enhancing the system of risk management in law enforcement, paying special attention to the assessment of political interference in investigations, promotion, appointment to higher posts, conflicts of interest and transparency in police sponsoring; (ii) putting in place a regular assessment mechanism with compliance officers contributing to the process; and (iii) translating the key risks identified into the national biannual anti-corruption action plan.*

99. The authorities indicate that, for part (i) of this recommendation, risk management in the Ministry of the Interior is decentralised. Operational risk management is carried out by the relevant organisational units, where the technical expertise lies. The Risk Management Competence Centre, a separate organisational unit, centrally coordinates the creation of guidelines, principles and the application of risk management in the Ministry of the Interior and its subordinate agencies. A new policy decree on risk management in the Ministry of the Interior will form the basis for measures in this area (see above, under recommendation ii).
100. With regards to part (ii) of this recommendation, the authorities explain that the new policy decree will also introduce a regular assessment mechanism.
101. For part (iii) of this recommendation, the authorities explain that the key risks will be identified by this new policy decree, which will also assign responsibilities. This will appear in the next anti-corruption action plan for 2026-2028, which will be drawn up in 2025.
102. GRECO takes note of this information, which indicates that all three parts of this recommendation will only be dealt with in a new policy decree on risk management under the next anti-corruption action plan for 2026-2028.
103. GRECO concludes that recommendation xiii has not been implemented.

#### **Recommendation xiv**

104. *GRECO recommended that (i) safeguards are put in place for promotion in the police to be free from any bias and discrimination of any kind, including political affiliation or other conflicts of interest; (ii) the selection process into senior executive posts in law enforcement is competitive, transparent, and merit-based, free from undue political interference and subject to appeal; and (iii) a system of periodic appraisals is introduced and that their results are used for decisions on career progression.*
105. The authorities reiterate, for parts (i) and (ii) of this recommendation, that the selection procedures and appointments to posts in the police administration are carried out in accordance with the Civil Servants Employment Act, the Act on the Advertising of Vacancies, the Federal Equal Treatment Act and the Women's Promotion Plan (with the involvement of staff representative bodies and the possibility of filing a discrimination complaint with an independent court of law). The authorities explain that the Act on the Advertising of Vacancies contains extensive provisions aimed at guaranteeing a fair and transparent advertising procedure in the federal service (see notably Section 5 and Section 7 paragraph 2, Section 10 of the Act). In addition, the authorities explain that the selection of middle management in the police administration is carried out by means of an automated objective multiple choice procedure.
106. With respect specifically to part (ii) of the recommendation, the authorities report that the selection for senior and top management posts in the police administration is carried out as part of the selection procedure by the University of Applied Sciences Neustadt for the BA Police Leadership Bachelor or the MA Strategic Security Management Master

programmes. It therefore falls outside the Ministry of the Interior's scope. For internal candidates, who are not subject to the Act on the Advertising of Vacancies, selection interviews are nonetheless carried out to ensure the greatest possible transparency and objectivity in the selection process.

107. The authorities also reiterate, for part (iii) of this recommendation, that a system of periodic appraisals connected with a decision on career progression was revised in 1994 and came into force on 1 January 1995 (Federal Law Gazette I No. 550/1994).
108. GRECO takes note of this information. As regards part (i) of this recommendation, the information provided by the authorities had already been taken into consideration in the Evaluation Report (see paragraph 179). GRECO's concern for part (i) is about political bias/preferences in the promotion of police officers. This bias/preference is confirmed by statistics on discrimination reports made to the Federal Equal Treatment Commission. GRECO regrets the lack of any new development on this front.
109. GRECO notes that for part (ii) of this recommendation, a part of the information received was also dealt with in the Evaluation Report (see paragraph 180). GRECO notes that the new information provided regarding the selection for senior executive posts still does not address its concern for this part of the recommendation, which is the existence of an even more pronounced political bias in the appointment to senior executive posts. It goes so far as to outweigh the merits of the candidates. This has not been addressed, since reference is made by the authorities to existing legislation that has not dealt with this issue.
110. GRECO notes that no new developments have been reported in connection to part (iii) of this recommendation calling for the introduction of periodic appraisals.
111. GRECO concludes that recommendation xiv has not been implemented.

#### **Recommendation xv**

112. *GRECO recommended (i) conducting trainings for all level law enforcement officials, including at senior level, regarding conflicts of interest and the ways in which they can be prevented, addressed, and managed; (ii) keeping the implementation of conflict-of-interest management rules under review, including by ensuring that there is proper follow-up and rigorous enforcement in the event of breaches.*
113. The authorities report that, for part (i) of this recommendation, the Federal Police Academy of the Ministry of the Interior in cooperation with the Federal Bureau of Anti-Corruption offer basic and advanced training programmes on the fight against corruption. Basic training by the Federal Bureau of Anti-Corruption offers police officers tailored expert lectures on the fight against corruption. Basic training programmes<sup>14</sup> then ensure that prospective managers in the police develop an in-depth understanding of corruption prevention and uphold the highest ethical standards in their professional

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<sup>14</sup> Basic Training Course (GAL) E2a – Middle Management Officers" and in the "Basic Training Course E1 – Senior Management Officers".

activities. In addition, the Ministry of the Interior's values and objectives, which form the basis of all police activities, are taught during the basic training. This includes the Ministry's Code of Conduct.

114. The authorities also explain that managers and all executives are subject to stringent anti-corruption training programmes (from basic police training to the middle management level).<sup>15</sup> The training aims to help them identify and prevent conflicts of interest and associated integrity issues.
115. There are currently no general anti-corruption training courses in the Federal Police Academy's annual seminar programme, other than the training measures directly organised by the Federal Bureau of Anti-Corruption. The content of the annual seminar programme is based primarily on the results of the ministry's staff appraisals that reveal areas needing further training. In this respect, a seminar was organised for the first time in the first half of 2024 on "Common Good as a Purpose of Action" aimed at members of the civil service of all job categories, covering values and conflicts of interest.
116. Online courses for employees of the Ministry of the Interior are also available<sup>16</sup> via the e-campus of the SIAK Federal Police Academy. Employees of the Ministry of the Interior can access e-learning courses on general rules and obligations of behaviour as well as compliance-relevant legal provisions.
117. With regards to part (ii) of the recommendation, the authorities explain that conflicts of interest are subject to constant scrutiny by superiors, based on the Civil Servants Employment Act. Violations are subject to the relevant proceedings before the competent disciplinary authority. The authorities refer to the legislative changes reported under recommendation vii part (i) above, notably the adoption of the Civil Service Employment Regulations Amendment 2024, which defines conflicts of interest (Section 43 (2)).
118. GRECO takes note of this information and welcomes, for part (i), the training aimed at all levels of law enforcement officials focused on the fight against corruption, including raising awareness on conflicts of interest. This part of the recommendation has been met.
119. As regards part (ii), GRECO recalls that the police were called to be proactive in dealing with its own conflicts of interest and looks forward to receiving more concrete details on the type of follow-up and enforcement measures that have been implemented since the adoption of the Fifth Round Evaluation Report.
120. GRECO concludes that recommendation xv has been partly implemented.

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<sup>15</sup> i.e. GAL-E2a and on to the GAL- E1/bachelor's degree programme "Police Leadership".

<sup>16</sup> e.g. the e-learning course "Our values. Our approach. Code of Conduct of the Ministry of the Interior" and the "Responsibility rests with me – a question of ethics" (Code of Conduct for the Prevention of Corruption in the Civil Service).

## Recommendation xvi

121. GRECO recommended (i) introducing an obligation to request authorisation for any kind of secondary activity (whether remunerated or not); (ii) establishing a centralised register of secondary activities; and (iii) developing effective oversight arrangements in this respect.
122. The authorities explain that reported secondary activities (including changes and termination) are recorded in the SAP (i.e. the accounting and payroll programme, Systems Application and Products), which includes a detailed description of the activity. The creation of a central register is currently being discussed. The authorities claim, however, that the introduction of a restriction on the exercise of secondary activities could be in conflict with certain fundamental rights and human rights intended to protect the privacy of staff members and their opportunities for additional gainful employment<sup>17</sup>. In addition, the introduction of a general obligation to obtain an authorisation would entail considerable additional work for the public administration due to the large number of members of the civil service, and the principle of economy, efficiency and expediency of public administration would also have to be taken into account. However, the authorities indicate that authorisation is required for certain secondary activities, which depends on the nature of the employee's main activity.<sup>18</sup>
123. Limitations to avoid conflicts of interest also apply to areas that are not covered by the authorisation requirement. For instance, there is a general duty to refrain from carrying out a secondary activity that hinders the fulfilment of official duties, gives rise to the presumption of partiality or jeopardises other essential official interests. In addition, there is a duty to report any gainful secondary employment and board activities in a legal entity under private law and the employing authority is under the obligation to prohibit any inadmissible secondary employment by issuing an instruction.
124. GRECO takes note of this information and underlines that addressing the issue of secondary activities, whether remunerated or not, is a key aspect of the appropriate management of conflicts of interest. For part (i), GRECO notes that at the moment, it is still up to police officers themselves to decide on the admissibility of a secondary activity. They are only under the obligation to report *gainful* employment (not unremunerated secondary activities) to the relevant human resources department.
125. For part (ii) of this recommendation, GRECO takes note that there is no centralised register on authorisations given for secondary activities.

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<sup>17</sup> e.g. Article 8 ECHR and Article 2, First Additional Protocol to the ECHR and the freedom to pursue an occupation and the right to choose an occupation and undergo vocational training (Article 6 and 18 of the Austrian Basic Law on the General Rights of Citizens)).

<sup>18</sup> These include:

- a) employees of the Federal Bureau of Anti-Corruption regarding all secondary employment, with the exception of publications and teaching activities (Section 2 paragraph 8 of the Federal Bureau of Anti-Corruption Act);
- b) employees of the Directorate State Protection and Intelligence Service (DSN) for all secondary employment, with the exception of teaching activities (Section 2 paragraph 6 DSN Act).

126. As regards part (iii), GRECO notes that there is no institutionalised follow-up system to check on whether or not police officers follow the obligation of keeping the information regarding secondary activities updated.
127. GRECO concludes that recommendation xvi has not been implemented.

#### **Recommendation xvii**

128. *GRECO recommended (i) increasing transparency over sponsorship and donations to the police by publishing them online, indicating the value, donor's identity and how the assets donated were spent or used; (ii) putting in place safeguards against real, potential, or perceived conflict of interest with regard to donations and sponsorships received by the police; and (iii) ensuring compliance with the applicable rules through awareness-raising measures and systematic controls.*
129. The authorities report that legal certainty with regard to the rules for civil servants on the acceptance of gifts was increased by adding, in December 2022, a new paragraph 7 to Section 59 of the Civil Servants Employment Act of 1979. It clarifies the conditions under which a contribution is not a gift or benefit within the meaning of the prohibition of the acceptance of gifts. Moreover, a sponsorship guideline for the public sector is being developed.
130. The Ministry of the Interior's current sponsorship guidelines provide that sponsorship measures (including the corresponding data) must be reported by the entire department and are published online in the form of an annual sponsorship report in the compliance activity report. Starting in 2025, donations and other benefits will also be recorded and published accordingly, when the Ministry of the Interior's Benefits Guideline comes into force.
131. Training on conflicts of interest in relation to donations to the Ministry of the Interior is provided in person and online on the e-Campus of the Federal Police Academy, as required. Training to raise awareness is carried out on an ongoing basis. Actions by staff members are subject to constant scrutiny by their superiors as part of a general and technical supervision. Violations are subject to the relevant proceedings before the competent disciplinary authority.
132. GRECO takes note of this information. It welcomes that a sponsorship guideline for the public sector is being developed. GRECO also notes that in 2025, donations and other benefits will be recorded and published when the Ministry of the Interior's Benefits Guideline comes into force. There is much in the pipeline, but no concrete measures have yet been implemented to address any of the three parts of this recommendation.
133. GRECO concludes that recommendation xvii has not been implemented.

## Recommendation xviii

134. GRECO recommended (i) strengthening the protection of whistleblowers within law enforcement, particularly by taking effective targeted measures to facilitate the reporting of corruption (including by guaranteeing whistleblowers confidentiality) and to guard against retaliation; (ii) establishing an appropriate system for the follow-up of whistleblowers reports concerning corruption of law enforcement officials, including information on the number of reports received, consultations and protection provided, and criminal cases initiated on the basis of such reports; and (iii) conducting dedicated training and awareness-raising activities about whistleblower protecting measures.
135. The authorities report that, for part (i) of this recommendation, the “Whistleblower Protection Act” (hereinafter “[the Act](#)”) was published in the Federal Gazette part I No 6/2023 on 24 February 2023 and entered into force on 25 February 2023. This Act transposes Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law (“Whistleblowing Directive”) into Austrian law. In addition, the Public Services Law was amended to ensure whistleblower protection and encourage reporting of corruption.<sup>19</sup>
136. The authorities outline the Act’s whistleblower protection system as follows: (1) it facilitates the reporting of corruption, (2) it guarantees the whistleblower’s confidentiality, and (3) it protects against retaliation. The Act, *inter alia*, introduces the obligation for legal entities to establish internal reporting channels. Whistleblowers also have the option of turning to (listed) external reporting channels or the Federal Bureau of Anti-Corruption if there are no other external reporting channels.
137. The authorities report that, for part (ii) of this recommendation, the Federal Bureau of Anti-Corruption began operating the Ministry of the Interior’s internal and external reporting offices on 25 August 2023 (Section 12, paragraph 1 and 4 and Section 15 of the Act). The reporting offices use a system that allows the receipt, follow-up, documentation and storage of reports.
138. The Federal Bureau of Anti-Corruption keeps statistics on the reports it receives and on the corresponding caseload, including the number of cases transferred. However, as there is no mandatory feedback procedure from authorities/departments to the

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<sup>19</sup> This essentially applies to: Section 53a of the Civil Servants Employment Act of 1979, which now reads as follows:

*“Protection against prejudicial treatment:*

*§53a. A civil servant who, pursuant to § 53 (1), reports in good faith a reasonable suspicion of an offence listed in § 4 (1) BAK-G [note: Federal Law on the Establishment and Organisation of the Federal Anti-Corruption Bureau] or reports in accordance with the HSchG [The Act] shall not suffer any prejudicial treatment at the hands of a representative of her/his employer in consequence of such a report. The same shall apply if a civil servant makes use of her/his right to report in accordance with § 5 BAK-G or her/his right to report in accordance with § 6 HSchG [The Act] to the internal body responsible in accordance with § 12 HSchG [The Act] or the external body responsible in accordance with § 15 (1) and (3) HSchG [The Act] or in accordance with § 14 (2) HSchG [The Act]. The 4<sup>th</sup> main Section of the HSchG [The Act] shall apply mutatis mutandis to persons in connection with reports under this Section.”*

reporting offices and judicial authorities are not obliged to provide data to the reporting offices or the Ministry of the Interior, it is difficult to keep statistics on criminal proceedings initiated on the basis of reports. By 18 April 2024, 82 reports had been received (total number of submissions, regardless of whether or not the Act applies) and two meetings had been held in person.

139. The authorities report that, for part (iii) of this recommendation, training measures to become a whistleblower officer (before 25 August 2023) and the participation in various compliance events (ongoing) have already been carried out. This includes raising awareness and introducing the reporting offices. Participation in further events (discussion forums, workshops, etc.) is planned.
140. GRECO takes note of this information and of the entering into force of the new Act transposing the EU Whistleblowing Directive, which is to be welcomed.
141. As regards part (i), GRECO takes note that the new Act introduces a whistleblower protection system which facilitates the reporting of corruption, guarantees the whistleblower's confidentiality, and protects the whistleblower against retaliation. The Federal Bureau of Anti-Corruption has articulated a reported system thus strengthening whistleblower protection, including for LEO. This is in line with the first component of the recommendation.
142. As regards part (ii), GRECO welcomes the establishment of reporting offices, which allow for the follow-up of whistleblowing reports. However, there seems to be a challenge in keeping statistics on reports and providing for feedback processes. This needs to be further developed for this part of the recommendation to be regarded as fully implemented.
143. As regards (iii), GRECO notes that dedicated training and awareness-raising activities about whistleblower protection measures were implemented, as required. This part of the recommendation has thus been met.
144. GRECO concludes that recommendation xviii has been partly implemented.

#### **Recommendation xix**

145. *GRECO recommended publishing statistics regarding corruption-related criminal or disciplinary proceedings involving law enforcement officials, including (i) information on complaints received and criminal/disciplinary proceedings instituted as a result; (ii) proceedings instituted ex-officio (i.e. without a formal complaint); (iii) sanctions imposed, including possible dissemination of relevant case-law, while respecting the anonymity of the persons concerned.*
146. The authorities report that statistics on corruption-related *criminal proceedings* are published in the Federal Bureau of Anti-Corruption's annual report.<sup>20</sup> However, this report only shows corruption-related criminal proceedings and does not explicitly show

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<sup>20</sup> [www.bak.gv.at](http://www.bak.gv.at), the Federal Bureau of Anti-Corruption's Annual Report 2022.



proceedings in which law enforcement officers are involved. Sanctions imposed are published in the Judicial Criminal Statistics.

147. The authorities explain that statistics on *disciplinary proceedings* are published in the Federal Disciplinary Authority's annual report.<sup>21</sup> The Ministry of the Interior has a compilation of statistics on corruption-related disciplinary proceedings, which has been adapted and will be analysed during the course of 2024 and available from 2025. Sanctions imposed on the basis of the applicable civil service law provisions are already published in anonymised form in the Federal Legal Information System.<sup>22</sup>
148. GRECO takes note of this information. As regards parts (i) of this recommendation, information on corruption-related criminal proceedings is published in the Federal Bureau of Anti-Corruption's annual report, but they do not specifically show proceedings involving law enforcement officials. Statistics on imposed sanctions are published in the Judicial Criminal Statistics and statistics on disciplinary proceedings are published in the Federal Disciplinary Authority's annual report. The compilation of statistics on corruption-related disciplinary proceedings in the Ministry of the Interior has been adapted – and will be analysed in 2024 and made available in 2025. GRECO takes note of the progress made and looks forward to receiving an update in due course.
149. As regards part (ii), GRECO notes that no information has been provided regarding *ex officio* proceedings. For part (iii), sanctions are published in the Judicial Criminal Statistics and in the Federal Legal Information System, which seems to have been the case before and needs further attention.
150. GRECO concludes that recommendation xix has not been implemented.

### III. CONCLUSIONS

151. **In the light of the foregoing, GRECO concludes that Austria has implemented satisfactorily one of the 19 recommendations set out in the Fifth Round Evaluation Report.** Of the 18 outstanding recommendations, six recommendations have been partly implemented and twelve have not been implemented.
152. More specifically, recommendation iv has been implemented satisfactorily, recommendations ii, vii, viii, xii, xv and xviii have been partly implemented and recommendations i, iii, v, vi, ix, x, xi, xiii, xiv, xvi, xvii and xix have not been implemented.
153. With regard to top executive functions, although only some recommendations have been partly implemented, progress can be noted. For instance, an important step forward is the legal reform that foresees the adoption of freedom of information legislation, which was passed by the National Council in January and enacted on 26 February 2024 (F-LG I No.5/2024, it will enter into force in September 2025). The new law introduces a constitutionally guaranteed right of access to information held by

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<sup>21</sup> [www.bmkoes.gv.at](http://www.bmkoes.gv.at)

<sup>22</sup> <https://www.ris.bka.gv.at/defaultEn.aspx>

administrative bodies. The Action Plan for the National Anti-Corruption Strategy for 2023-2025 includes measures to prevent corruption and increase integrity for PTEFs and a draft Code of Conduct for members of the Federal Government is in the pipeline. Furthermore, an expert working group's final report aims to strengthen the Prosecutors Offices' independence and eliminate the appearance of undue political influence. As this will require constitutional amendments, other solutions have been found to deal with this in the meantime, such as revising the decree on reporting obligations and clarifying and simplifying existing reporting obligations to ensure uniform application by the Public Prosecutors' Offices. However, progress is still lacking in the performance of integrity checks in PTEFs' appointment procedure, transparency surrounding the work of secretaries general and ministerial advisors, and lobbying, among others. Finally, there is no genuine scrutiny in the detection of conflicts of interest of PTEFs, which remains a critical loophole undermining the integrity of institutions.

154. With regard to law enforcement agencies, some limited progress can be noted. For instance, the Act on Proceeding and Protecting Reports on Breaches of Law in Certain Areas, which transposes the EU Whistleblowing Directive, has been adopted and has entered into force. Training on the fight against corruption and on whistleblower protection measures for all levels of law enforcement officials has now been introduced. A sponsorship guideline for the public sector is being developed, which will introduce the obligation to record and publish all donations and other benefits. With respect to whistleblowers, reporting offices have been introduced, but more needs to be done in respect of follow-up and feedback processes of whistleblowers reports. The issue of secondary activities, whether remunerated or not, as a key aspect of the appropriate management of conflicts of interest, has not been addressed. Finally, challenges remain in keeping statistics on corruption-related criminal or disciplinary action.
155. 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 delegation of Austria to submit additional information with regard to the implementation of the 18 outstanding recommendations, namely recommendations i, ii, iii, v, vi, vii, viii, ix, x, xi, xii, xiii, xiv, xv, xvi, xvii, xviii and xix, by 31 May 2026.
156. GRECO invites the authorities of Austria to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.