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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

ICELAND

Adopted by GRECO at its 78th Plenary Meeting
(Strasbourg, 4-8 December 2017)

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I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Iceland to implement the eight pending recommendations issued in the Fourth Round Evaluation Report on Iceland (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Round Evaluation Report](#) on Iceland was adopted at GRECO's 59th Plenary Meeting (22 March 2013) and made public on 28 March 2013, following authorisation by Iceland.
3. The [Compliance Report](#) was adopted by GRECO at its 67th Plenary Meeting (27 March 2015) and made public on 1 April 2015, following authorisation by Iceland. It was concluded that Iceland had implemented satisfactorily or dealt with in a satisfactory none of the 14 recommendations contained in the Fourth Round Evaluation Report. In view of this result, GRECO concluded that the very low level of compliance with the recommendations was "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the evaluation report, and asked the Head of Delegation of Iceland to provide a report on the progress in implementing the pending recommendations.
4. An [Interim Compliance Report](#) was adopted by GRECO at its 71st Plenary Meeting (18 March 2016) and made public on 23 March 2016, following authorisation by Iceland. GRECO concluded that Iceland had made credible efforts to progress in implementation: two recommendations had been implemented satisfactorily (viii and ix), six recommendations had been partly implemented (i, ii, v, vi, vii and x) and two recommendations remained not implemented (iii and iv). GRECO therefore concluded that the level of compliance with the recommendations was no longer "globally unsatisfactory". Application of Rule 32 was discontinued and Iceland was requested to submit additional information regarding the implementation of the outstanding recommendations. This report was received on 8 May 2017 and served as a basis for this Second Compliance Report.
5. The current [Second Compliance Report](#) evaluates the progress made in implementing the pending recommendations since the previous Interim Report (recommendations i to vii and x) and provides an overall appraisal of the level of Icelandic compliance with these recommendations.
6. GRECO selected Malta and Norway to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Kevin VALLETTA, Office of the Attorney General, on behalf of Malta and Ms Mona RANSEDOKKEN, Senior Adviser, International Section of Police Department, Ministry of Justice and Public Security, on behalf of Norway. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

II. ANALYSIS

7. GRECO, in its Evaluation Report, had addressed 10 recommendations to Iceland. In the subsequent (Interim) Compliance Report, GRECO concluded that recommendations viii and ix had been implemented satisfactorily, recommendations i, ii, v, vi, vii and x had been partly implemented and recommendations iii and iv had not been implemented. Compliance with the eight pending recommendations is dealt with below.

8. It is recalled that, in June 2015, the Minister of the Interior appointed an Inter-Ministerial Steering Group on Implementing International Agreements against Corruption and Bribery. The Steering Group, which is now under the Ministry of Justice, has an advisory role for the Icelandic government in this field and communicates with international institutions such as GRECO. The authorities stress that different actors have been consulted, including various governmental agencies and offices, as well as private associations, prior to submitting the update to GRECO, which forms the basis of the present report.

Corruption prevention in respect of members of parliament

Recommendations i and ii.

9. *GRECO recommended:*

- *developing a code of conduct for members of the Althingi (MPs) and (ii) ensuring there is a mechanism both to promote the code and raise awareness among MPs on the standards expected of them, but also to enforce such standards where necessary (recommendation i);*
- *that the Althingi introduce a requirement of ad hoc disclosure when, in the course of parliamentary proceedings, a conflict between the private interests of individual MPs may emerge in relation to the matter under consideration (recommendation ii).*

10. GRECO recalls that, pending the adoption of the draft code of conduct and the subsequent articulation of its implementation measures, these recommendations were considered partly implemented.
11. The authorities of Iceland confirm that a Code of Conduct for the Althingi was adopted on 16 March 2016; its elaboration process involved both parliamentarians themselves, as well as civil society at large since the document was made available for public consultation and comments. The Code contains specific rules on its monitoring, enforcement and advisory channels. It is possible for individuals and legal persons to submit in their own name written and reasoned communications regarding alleged violations of the Code of Conduct.
12. The Speaker is vested with main responsibility regarding compliance of MPs with their obligations under the Code. It is assisted by a dedicated Advisory Committee, whose composition includes lay membership¹.
13. Regarding ad-hoc disclosure, parliamentarians are to make a statement when, in the course of parliamentary proceedings, a conflict between the public interest and individual private interests emerges in relation to the matter under consideration (Article 8, Code of Conduct). Moreover, MPs shall, when applicable, draw attention to their own personal interests that may be relevant in the process of parliamentary business (Article 9, Code of Conduct). No member may vote in support of an appropriation of funds to him/herself (Article 78, Althingi Standing Orders).

¹ The Speaker shall nominate the chairman of the Advisory Committee, who shall possess knowledge of the work of the Althingi and its Members. Two committee members shall be nominated by the Joint Committee of the Icelandic Universities formed under Article 26 of the Universities Act No. 63/2006. One of those members shall have a professional degree or master's degree in law and the other shall have a master's degree in philosophy or applied ethics and knowledge of ethical codes. Alternates shall be appointed in the same manner (Article 15, Code of Conduct).

14. GRECO welcomes the adoption of the Code of Conduct for members of the Althingi, as coupled with a mechanism for its implementation, consisting of the Speaker assisted by a dedicated Advisory Committee, including outside expertise. Moreover, GRECO welcomes the introduction of a requirement of ad-hoc disclosure in the Code of Conduct for members of parliament for situations when personal conflicts of interest emerge during parliamentary proceedings.
15. GRECO concludes that recommendations i and ii have been implemented satisfactorily.

Recommendations iii and iv.

16. *GRECO recommended:*
 - *that the existing registration system be further developed, in particular, (i) by including quantitative data of the financial assets/contributions received by MPs; (ii) by providing details of financial liabilities (i.e. debts) of MPs excluding reasonable house loans linked to ordinary market rates and minor loans not exceeding a reasonable limit; and (iii) by considering widening the scope of asset declarations to also include information on spouses and dependent family members - it being understood that such information would not necessarily need to be made public (recommendation iii);*
 - *that the Althingi strengthen the credibility of the registration system pertaining to MPs' declarations of financial interests by ensuring greater adherence to the rules through a system of monitoring, providing MPs with access to advice and guidance, and implementing a mechanism to sanction MPs who fail to meet the requirements on them (recommendation iv).*
17. GRECO recalls that these recommendations were considered not implemented, as there had been no concrete output to further develop, and thereby strengthen, the registration system pertaining to MPs' declarations of financial interests.
18. The authorities of Iceland indicate that changes to the current registration system are still under consideration. The registration of interests for MPs was discussed at the Annual Meeting of the Nordic and Baltic Speakers of Parliament in August 2017. The meeting, however, did not reach a definitive conclusion. The matter is to be pursued by the new legislature², but it must be noted that the former one was generally positive as to GRECO's detailed remarks on widening the scope of the information registered and coupling the disclosure regime with an efficient monitoring mechanism. The registration of interests of spouses and dependent family members is a bit more controversial, but the authorities stress that they will continue paying consideration to this matter in the light of international experience.
19. GRECO takes note of the on-going reflection and urges the new legislature to take prompt action in this domain. GRECO can only underscore the value of transparent, comprehensive and credible systems of asset declarations to prevent corruption. In light of recent history and the types of conflicts of interest that emerged during the financial crisis, including high levels of indebtedness of politicians and their close links to business, the improvements specifically called for are especially important for Iceland. In particular, the current system must be widened to include not only assets, but also relevant liabilities. Likewise, ways should be explored, with due regard for privacy rights, to better monitor the assets of spouses and dependent family members, in order to prevent potential circumvention of the rules by channelling MPs' assets to their close ones. Finally, but most importantly, a robust

² Elections to the Althingi took place on 28 October 2017.

monitoring, advisory and enforcement machinery of the applicable disclosure regime must be assured.

20. GRECO concludes that recommendations iii and iv remain not implemented.

Corruption prevention in respect of judges

Recommendation v.

21. *GRECO recommended reviewing the present situation concerning election, nomination and appointment procedures of (i) members of the Labour Court (and more particularly the persons nominated by the Supreme Court) and (ii) experts to the bench, in order to ensure that those procedures are vested with appropriate guarantees of independence, impartiality and transparency.*
22. GRECO recalls that this recommendation was considered partly implemented. More particularly, in the absence of any tangible development, the first part of the recommendation was assessed as not implemented. Regarding the second part of the recommendation, a Bill with important improvements to the system of appointment of experts to the bench had been developed, but was pending adoption; hence, this part of the recommendation was considered as partly implemented.
23. The authorities of Iceland report that the Ministry of Welfare, together with its social partners, is currently working on possible ways to ameliorate the selection process of members of the Labour Court and expects to come up with a sound proposal by spring 2018.
24. As to the second part of the recommendation, a new Act on Courts no. 50/2016 was adopted on 26 May 2016; it enters into effect on 1 January 2018. It sets in place a three tier system of justice: district courts, Court of Appeal (*Landsréttur*), and Supreme Court. It also includes specific provisions on the selection process of experts to the bench, aimed at significantly strengthening the transparency of the selection process, as well as the independence and impartiality of the experts. A new administrative institution, the Icelandic Court Administration (*Dómstólasýslan*), will advertise for the positions of experts to the bench in order to create a substantial pool of these experts in all the major fields where expertise is needed. The Icelandic Court Administration will then evaluate the qualifications of the experts, decide their terms of employment, organise seminars for them, and have them sign an oath. Judges in district courts and the Chief Judge of the *Landsréttur* would then be able to take experts from the existing pool.
25. GRECO welcomes the new rules in place to provide for greater transparency, independence and impartiality of the selection process of experts to the bench; the new Act on Courts enters into force on 1 January 2018. GRECO, nevertheless, regrets that nothing tangible has been done to improve the selection process for members of the Labour Court.
26. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

27. *GRECO recommended that (i) a set of standards of professional conduct, accompanied by explanatory comments and/or practical examples, be adopted for the judiciary and be made public; (ii) judges are provided with appropriate training and counselling services on ethics, integrity and the prevention of conflicts of interest.*

28. GRECO recalls that this recommendation was considered partly implemented, as the concrete measures called for, i.e. the adoption of a set of standards of professional conduct for the judiciary and the development of appropriate training on ethical matters thereafter, were still under development.
29. The authorities of Iceland indicate that an internal reflection process was started in 2014 to adopt a code of conduct. Several meetings and seminars have been organised in the last three years to enable an inclusive discussion among judges culminating with the adoption of a Code of Conduct on 24 November 2017. The Code foresees the establishment of an Ethics Council, which would act as a catalyst for discussion on judicial ethics and serve, for that purpose, as an advisory body.
30. Additional developments have taken place to better regulate on conflicts of interest. The new Act on Courts has provisions on a special committee which is to further regulate on secondary activities, shareholdings, jobs prior to sitting on the bench and related registers. The said committee is responsible for ensuring coherence of the authorisation system for outside interests through either accepting or rejecting individual judges' requests. The decisions of this committee can be appealed before a court. The rulings of the committee are available online.
31. Moreover, since 1 January 2017, asset declarations of judges from the Supreme Court are also available online, including information on extra jobs, real estate holdings other than for personal use of the judge and his/her family, shares or ownership in any kind of legal entities, debts that are not directly related to personal real estate holdings and, finally, participation of judges in non-profit associations. Further, the Association of Icelandic Judges adopted, in February 2017, a resolution stating that judges are in favour of a stricter financial disclosure obligation (e.g. on shares above a certain threshold). Since such an obligation is to be laid out in law, a concrete legislative proposal, through amendments to the Act on Courts, is under preparation and awaits parliamentary consultation.
32. Regarding training, the new Act on Courts includes a specific provision reaffirming the importance of continuing education for judges; specific timing and resources must be allocated in the system to this aim. In this connection, pursuant to a recent ruling, judges can now have up to six months of leave every four years for educational and research purposes. Following this ruling, special provisions on educational leave for judges have been put in place; this adds to the educational fund for judges which was established on 1 December 2016. In addition, the Board of the Icelandic Court Administration (*Dómstólasýslan*) has approved of courses on ethics, integrity and the prevention of conflicts of interest being part of a new upcoming training programme for Icelandic judges.
33. GRECO takes note of the reported developments aimed at increasing public trust in the judiciary, including through disclosure of outside interests of judges. Further measures in this domain are still pending implementation or under consideration. The adoption of a Code of Conduct for judges being a very recent development, GRECO looks forward to additional details on its related implementation mechanisms. Regarding training, it is to be welcomed that structural measures have been put in place to better allow for continuous education of judges; it will be important to ensure that such possibility is not only contemplated in law, but also followed in practice. GRECO looks forward to receiving additional details as to the anticipated integrity-related training courses.
34. GRECO can only reiterate the importance of enhancing discussion, experience sharing and awareness-raising regarding the prevention of conflicts of interest in Iceland, given the small population of the country and the close links that may exist

among its inhabitants. The judiciary is no exception in this respect, and is not spared criticism in this regard, as has been evidenced in recent years by the media.

35. GRECO concludes that recommendation vi remains partly implemented.

Corruption prevention in respect of prosecutors

Recommendation vii.

36. *GRECO recommended that measures be taken to ensure security of tenure for all prosecutors.*
37. GRECO recalls that this recommendation was considered partly implemented. GRECO welcomed the provision of permanent contracts for the profiles of District Public Prosecutor and Deputy District Public Prosecutor. Having said that, GRECO reiterated its view as to the necessity of ensuring security of tenure for all categories of prosecutors.
38. The authorities of Iceland reiterate that four of the highest ranking prosecutors in Iceland are appointed for an indefinite period of time. A Special Committee on Procedural Law, under the aegis of the Ministry of Justice, has been reviewing the general rules on appointment of prosecutors to fulfil this particular recommendation; the process is on-going. The authorities further add that, as such, there is no objection to implementing this recommendation. However, since police commissioners can also act as prosecutors in certain cases in Iceland, an assessment is being carried out as to which categories would actually be provided with indefinite term contracts.
39. GRECO notes the on-going work in this area. Security of tenure of prosecutors is a recognised international standard, as has been repeatedly stressed by GRECO throughout its Fourth Evaluation Round. Its main objective is to preserve impartiality of prosecution, since it is considered that appointments for limited periods with the possibility of reappointment bear the risk that the prosecutor makes his/her decisions not on the basis of the law but with the idea of securing reappointment. GRECO trusts that the authorities will make their utmost to find a suitable way to address this shortcoming.
40. GRECO concludes that recommendation vii remains partly implemented.

Recommendation x.

41. *GRECO recommended that prosecutors are provided with appropriate training (dedicated courses and practical examples) and counselling services on ethics, integrity and the prevention of conflicts of interest; and (ii) as a result of, and in connection with, the experience gained in these areas that consideration is paid to further tailoring/updating the applicable deontological standards in the profession.*
42. GRECO recalls that this recommendation was considered partly implemented, as GRECO awaited further efforts to better guide prosecutors when confronted with conflicts of interest (i.e. deontological standards, training and counselling).
43. The authorities of Iceland report on several initiatives to enhance discussion and raise awareness on the prevention of conflicts of interest and, more generally, integrity-related matters, with the prosecution service. Training on such matters was organised in 2017 bringing together 37 prosecutors (i.e. more than half of the overall number of prosecutors in Iceland). Moreover, the materials of the course were further distributed to all prosecutors via email, along with a translation of a

booklet from Danish prosecutorial authorities on ethical rules and professional standards. The Code of Conduct for European Prosecutors (so-called Budapest Rules) has been posted on the website of the Director of Public Prosecutions (DPP), in addition to making it available in the annual reports of the agency. More importantly, a Code of Conduct for prosecutors has just been adopted in November 2017; it addresses key aspects of ethical and professional conduct of prosecutors. All these efforts add to the training needs already reported in the past (RC-Interim Report, 2016).

44. GRECO acknowledges the new efforts made by the prosecution service to raise awareness of its files on integrity matters. GRECO is of the view that these efforts need to be sustained and formalised. GRECO understands that the number of prosecutors in Iceland is also limited (72 prosecutors in the country) and that the training provided so far has represented an important opportunity to discuss ethical matters. GRECO trusts that this would not constitute a mere punctual event and that further training and counselling services take place at regular intervals from now on; this is understandably an on-going process. The adoption of a code of conduct for prosecutors is certainly an encouraging sign to this effect.
45. GRECO concludes that recommendation x has been implemented satisfactorily.

III. CONCLUSIONS

46. **In view of the conclusions contained in the previous Fourth Round Compliance Reports on Iceland and in view of the above, GRECO concludes that Iceland has implemented satisfactorily in total five of the ten recommendations contained in the Fourth Round Evaluation Report.** Out of the remaining recommendations, three have been partly implemented and two have not been implemented.
47. More specifically, recommendations i, ii, viii, ix and x have been implemented satisfactorily, recommendations v, vi and vii have been partly implemented, recommendations iii and iv have not been implemented.
48. With respect to members of parliament, GRECO is pleased to note that, after years of internal discussion and building consensus, the Althingi has now its Code of Conduct. This is an important statement of ethical principles for both members and the public at large. More can be done, however, to further strengthen the transparency, efficacy and credibility of the existing financial declaration system.
49. As far as judges and prosecutors are concerned, substantial reform has occurred in recent years, including through the establishment of a separate tier for appeal of court/prosecutorial decisions. New rules were also introduced to provide for greater transparency and objectivity of the selection process of experts to the bench; shortcomings, however, remain as regards the appointment of members of the Labour Court. Likewise, additional steps are required to ensure security of tenure of all categories of prosecutors, and not only the highest ranking posts. Finally, although there are some promising initiatives underway regarding ethics in service (e.g. adoption of codes of conduct, training possibilities), there is room for greater reflection on the prevention of conflicts of interest in a broader perspective, and more generally, integrity and anticorruption related matters.
50. In view of the fact that five (out of ten) recommendations are yet to be implemented, GRECO in accordance with Rule 31 revised, paragraph 9 of its Rules of Procedure asks the Head of the delegation of Iceland to submit additional information, namely regarding the implementation of recommendations iii, iv, v, vi and vii by 30 September 2018.

51. Finally, GRECO invites the authorities of Iceland to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.