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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

INTERIM COMPLIANCE REPORT

ICELAND

Adopted by GRECO at its 71st Plenary Meeting
(Strasbourg, 14-18 March 2016)

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I. INTRODUCTION

1. The Fourth Round Evaluation Report on Iceland was adopted at GRECO's 59th Plenary Meeting (18-22 March 2013) and made public on 28 March 2013, following authorisation by Iceland ([Greco Eval IV Rep \(2012\) 8E](#)). GRECO's Fourth Evaluation Round deals with "Corruption Prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of Iceland submitted a Situation Report on measures taken to implement the recommendations. 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 Mr Atle ROALDSOY, Policy Director, Section for European and International Affairs, Ministry of Justice and Public Security, on behalf of Norway. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
3. In the Compliance Report ([Greco RC-IV \(2015\) 3E](#)) which was adopted by GRECO at its 67th Plenary Meeting (23-27 March 2015), it was concluded that none of the ten recommendations contained in the Fourth Round Evaluation Report had been implemented satisfactorily or dealt with in a satisfactory manner by Iceland. 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 mutual evaluation report, and asked the Head of delegation of Iceland to provide a report on the progress in implementing the pending recommendations (i.e. all recommendations) by 30 September 2015. This report was received on 5 October 2015 and served as a basis for the Interim Compliance Report.
4. It is recalled that in the Compliance Report, recommendations viii and ix were considered as partly implemented, and recommendations i, ii, iii, iv, v, vi, vii and x as not implemented. The current Interim Compliance Report assesses the further implementation of the aforementioned recommendations since the adoption of the Compliance Report, and performs an overall appraisal of the level of Iceland's compliance with these recommendations.

II. ANALYSIS

Corruption prevention in respect of members of parliament

5. The authorities report 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 has an advisory role for the Icelandic government in this field and communicates with international institutions such as GRECO. The Steering Group has seven representatives, from three ministries, law-enforcement agencies, the judicial branch and an advocacy group in this field¹. The authorities add that numerous 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 Interim Compliance Report.

¹ The Inter-Ministerial Steering Group has representatives appointed by the Ministry of the Interior, Ministry of Finance and Economic Affairs, Ministry of Industries and Innovation, the Office of the Special Prosecutor, the Office of the Director of Public Prosecutions, the Judicial Council and Gagnsæi, an anti-corruption advocacy group.

Recommendations i and ii.

6. *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).*

7. GRECO recalls that, in the absence of details regarding the draft Code of Conduct of the Althingi and the way it would effectively meet recommendations i and ii, it seemed premature to make any sound judgement on compliance. These recommendations were, therefore, considered not implemented.

8. The authorities of Iceland state that the draft Code of Conduct for Members of the Althingi was reintroduced on 15 September 2015 following the commencement of the new parliamentary session. The draft follows the Code of Conduct of Members of the Parliamentary Assembly of the Council of Europe, as adapted to the Althingi; it further includes specific rules on its monitoring, enforcement and advisory channels. The draft Code of Conduct was introduced jointly by the Speakers' Committee and the Chairmen of the parliamentary party groups. The first reading of the draft took place on 17 September 2015; it was put online for public consultation² and has since then been under consideration by the Althingi Constitutional and Supervisory Committee. The Committee finished its reviewing of the draft Code on 16 February 2016 and its report on the matter will be submitted the Althingi around the 22 February 2016. The report will include some changes to the original draft Code. Major changes are, however, not expected following the Committee's review of the draft, which will then undergo its second (and final) reading prior to its adoption. The authorities anticipate that the Code of Conduct will probably be adopted before the Easter break.

9. Regarding recommendation ii, the authorities indicate that a provision in the draft Code of Conduct requires members of Althingi to disclose 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.

10. GRECO welcomes the work in progress and trusts that these recommendations will be fully complied with once the draft Code of Conduct is formally adopted by Parliament, as anticipated by the authorities.

11. GRECO concludes that recommendations i and ii have been partly implemented.

Recommendations iii and iv.

12. *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*

² Draft Code of Conduct (in Icelandic) available at <https://www.althingi.is/alttext/pdf/145/s/0115.pdf>.

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).*
13. 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.
 14. The authorities of Iceland indicate that, as regards the Althingi's rules on the registration of members' financial interests, the recommendations made by GRECO are still under consideration. Furthermore, the Althingi has stated that the revision of the rules on the registration of members' financial interests will not be completed until after the adoption of the Code of Conduct for Members. The reviewing process might finish by the end of 2016.
 15. There has been no change to the situation assessed by GRECO in its Compliance Report and, therefore, GRECO can only conclude that recommendations iii and iv remain not implemented.

Corruption prevention in respect of judges

Recommendation v.

16. *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.*
17. GRECO recalls that this recommendation was considered not implemented, as there had been no noticeable improvement regarding the guarantees of independence, impartiality and transparency applicable to the election, nomination and appointment procedures of members of the Labour Court and experts to the bench.
18. The authorities of Iceland report that, regarding the first part of the recommendation, the Ministry of Welfare has decided to take the matter into further consideration in cooperation with the social partners.
19. Concerning the second part of the recommendation, the authorities informed GRECO that a Bill has been drafted to establish a three-tier court system in Iceland, instead of two tiers. A new law, based on this Bill, would replace the current Act on Courts No. 15/1998. A new court, *Landsréttur*, would act as a court of appeal in the second tier, receiving cases from the district courts. This new system is aimed at better guaranteeing due process, especially in evaluating the credibility of reports by witnesses in court cases. Moreover, the new Bill is aimed at strengthening the role of the Supreme Court to issue rulings which serve as a precedent in legal matters. These legal amendments are wide in scope and also involve amending the Act on Criminal Procedure No. 88/2008 and the Act on Procedure in Civil Cases No. 91/1991. The new bills have already been introduced for public consultation on the website of the Ministry of the Interior. Currently, this proposed legislation is under

further review, taking into consideration comments received during the public consultation process. The bills will subsequently be introduced in Althingi during the current session of parliament.

20. One of the key amendments in the new Bill on courts regards changing the selection process of experts to the bench, who are expected to be used both in the first and second tiers. The transparency of the process is meant to be significantly enhanced, as well as the independence and impartiality of those experts. According to new provisions in the Bill, a new administrative institution ensuring adequate administration of the courts (*Dómsstólasýslan*) 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 special 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 *Landsréttur* shall select experts from the bench according to the new amendments. These procedures are reportedly focused on ensuring appropriate guarantees of independence, impartiality and transparency in appointing experts to the bench, as recommended by GRECO. The authorities further underscore that the Icelandic Court Administration is an independent agency that is not subject to the power of other institutions in the judicial system and by nature is independent of the legislative and executive branches of the State. Overall the proposed new framework is aimed at strengthening even further the impartiality of the judicial branch, building on the work already in place by the current Judicial Council (*Dómsstólaráð*) which has been the administrative agency for the district courts.
21. GRECO appreciates that the authorities have recognised the need to review the situation concerning the election, nomination and appointment procedures of members of the Labour Court. However, no tangible change, or even prospective reform, has occurred in this respect. This part of the recommendation is clearly not implemented.
22. The situation regarding the second part of the recommendation appears to be more positive, given that there is a discernible reform process, which foresees a transparent procedure for the recruitment of experts to the bench, as well as further requirements aimed at ensuring appropriate guarantees of independence and impartiality in the important function they are called to perform in court. Since the proposed Bill awaits adoption, this part of the recommendation can only be assessed as partly implemented.
23. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

24. *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.*
25. GRECO recalls that this recommendation was considered not 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, had not materialised in practice.
26. Concerning the first part of the recommendation, the authorities of Iceland reiterate that the Judicial Council approved, on 14 February 2014, a Code of Conduct for

employees of the district courts in Iceland. The latter is available on the Judicial Council website and applies to all employees of the district courts, including judges. In addition, a special committee of the Icelandic Association of Judges has been drafting a specific code of conduct for judges. This special committee has worked extensively on the issue and reviewed international standards on this subject in addition to analysing codes of conduct for judges in several countries on both sides of the Atlantic. The result is a detailed memo or a report which was presented at the general meeting of the Icelandic Association of Judges on 13 November 2015; this memo was generally well received by those who attended the meeting. The main conclusion of the memo is that a strong argument can be made for adopting a set of ethical standards for Icelandic judges to underscore their formal commitment to integrity thereby contributing to maintaining, and even increasing, public faith in the judicial system as a whole. In its conclusions, the special committee also refers to international recommendations on adopting a code of conduct for judges in Iceland. Moreover, the general meeting of the Icelandic Association of Judges adopted a proposal to hold a seminar this spring where judges would discuss if they want to adopt a code of conduct and, if so, how these rules should be written and implemented. In a letter addressed to the Ministry of the Interior, the Vice chair of the Association of Judges expressed the view of the Board of the Association that it is important for Icelandic judges to adopt a code of conduct. Subsequently, proposals on such rules would be on the agenda of the next general meeting towards the end of this year, according to the expectations of the Board. In the authorities' view, these are all positive developments confirming the intention of the judiciary itself, but also of the Ministry of the Interior, to implement recommendation vi.

27. As for the second part of the recommendation, the draft Bill on Courts previously mentioned (see paragraph 19) also includes a specific provision reaffirming the importance of continuing education for judges. According to Article 24 of the Act on the Judiciary No. 15/1998, judges shall endeavour to update their knowledge of law. They shall, as possible, be afforded opportunities for leave and support for continuing education. Furthermore, according to a new ruling by a committee deciding on salaries and other terms of employment for officials, Icelandic judges can now have up to six months of leave every four years for educational and research purposes. The authorities expect further developments on implementation of the second component of recommendation vi following the set of activities already set in motion to develop a code of conduct for the judiciary, as anticipated above.
28. GRECO takes note of the plans reported to achieve further progress in the implementation of recommendation vi. It awaits, in particular, information as to the adoption of a specific code of conduct for judges, accompanied by appropriate guidance and counselling on its application. GRECO welcomes that the system attaches key significance to initial and continuous education on integrity matters, which is all the more important in the Icelandic context given the small population of the country and the close links that may exist between its inhabitants; that said, words and plans have to be coupled with concrete and identifiable measures.
29. GRECO concludes that recommendation vi remains partly implemented.

Corruption prevention in respect of prosecutors

Recommendation vii.

30. *GRECO recommended that measures be taken to ensure security of tenure for all prosecutors.*
31. GRECO recalls that this recommendation was considered not implemented, as no measures had been implemented to ensure security of tenure of prosecutors.
32. The authorities of Iceland report that a new Law on the Office of the District Public Prosecutor No. 47/2015 was adopted on 30 June 2015 and entered into force on 1 January 2016 (for further details see below under recommendations viii and ix). Changes were introduced in 2015 already to establish the Office of the District Public Prosecutor entrusted with the investigation and prosecution of economic crime³. The Minister of the Interior assigned an ad-hoc committee with the task of reviewing the applications for both positions and submitting an assessment on the qualifications of the applicants. The committee concluded that they were all qualified and applications were submitted for each position. Both the District Public Prosecutor and the Deputy District Public Prosecutor were appointed, on 28 October 2015, by the Minister of the Interior without time limits, thus taking a step towards responding to this recommendation. Moreover, a Special Committee on Procedural Law, under the *aegis* of the Ministry of the Interior, has also been reviewing the general rules on appointment of prosecutors in light of GRECO's recommendation. That process is still on-going.
33. GRECO takes note of the new developments reported, assuring security of tenure for the newly created profiles of District Public Prosecutor and Deputy District Public Prosecutor. It is to be recalled that, until now, only the Director of Public Prosecutions and his/her Deputy are appointed for an indefinite period of time; all other prosecutors are given a five-year renewable mandate. GRECO welcomes the provision of permanent contracts for these newly created profiles with key responsibilities for the investigation and prosecution of economic crime. GRECO nevertheless reiterates its view as to the necessity of ensuring security of tenure for all categories of prosecutors.
34. GRECO concludes that recommendation vii has been partly implemented.

Recommendations viii and ix.

35. *GRECO recommended:*
 - *introducing a possibility to appeal the decisions taken by a prosecutor during the preliminary investigative phase (recommendation viii);*
 - *that a system be introduced to enable greater independence and impartiality of the prosecutorial decisions taken at district level (recommendation ix).*
36. GRECO recalls that, pending the adoption of the Bill amending the Law on Criminal Procedure, these recommendations were considered partly implemented.

³ The tasks of the Special Prosecutor have been taken over by the new District Public Prosecutor and the Office of the Special Prosecutor ceased to exist at the beginning of this year. It is to be recalled that the Office of the Special Prosecutor was created following the collapse of the Icelandic banking sector. It was given national competence and entrusted with the investigation of suspicions of criminal actions connected with the operations of financial undertakings and by those who have held shares in those undertakings or have exercised voting rights in them and, similarly, suspicions of criminal actions on the part of the managers, advisors and employees of financial undertakings and other persons who have been involved in the activities of the undertakings (Article 1(1), Act on the Office of the Special Prosecutor).

37. The authorities of Iceland underscore that the new Law on the Office of the District Public Prosecutor No. 47/2015, which makes considerable changes to both the Law on Criminal Procedure No. 88/2008 and the Law on Police No. 90/1996, reinforces and puts fully in place a two layer prosecutorial system. Pursuant to the improved set-up provided by law, all decisions, concerning investigation and prosecution, made by either police commissioners or district prosecutors in the first tier can be appealed before the Office of the Director of Public Prosecutions. Law No. 47/2015 (Article 16) compels both the District Public Prosecutor and police commissioners to provide arguments for their decisions to drop charges in particular cases, if a request for that is submitted.
38. Those who disagree with decisions of the District Public Prosecutor or police commissioners can appeal them to the Director of Public Prosecutions within a month from the date of notification (Article 16, Law No. 47/2015). The Director of Public Prosecutions has up to three months to reach a conclusion on these appeals. The Director of Public Prosecutions can also, on his/her own initiative, repeal decisions made by the District Public Prosecutor or police commissioners if they are considered illegal. However this has to be done within three months from the original decision in question. Furthermore, those who do not agree with the decision of the police to withdraw an original charge brought forward or to terminate an investigation, can appeal that decision to the Director of the Public Prosecutions within one month from notification. The former shall reach a conclusion on the appeal within three months, according to Article 10 of Law No. 47/2015, amending the Law on Criminal Procedure No. 88/2008.
39. Funds have been earmarked in the 2016 budget to implement the new institutional set-up: the Office of the District Public Prosecutor has a staff of around 50 people and a budget of 785.2 million Icelandic krona (approximately 5.5 million EUR).
40. GRECO welcomes the initiatives reported in response to its recommendations by reinforcing the prosecution system as a whole, including by providing for appeal channels and thereby enabling greater independence and impartiality of the prosecutorial decisions taken at district level. GRECO further appreciates the arrangements made in order to devote special attention to the issue of economic crime in Iceland. These are key changes to the former prosecution system, in both breadth and depth, for which the authorities must be commended. GRECO notes that functional and operational actions in this respect already started in 2015 and are now well underway with funds secured to this aim.
41. GRECO concludes that recommendations viii and ix have been implemented satisfactorily.

Recommendation x.

42. *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.*
43. GRECO recalls that this recommendation was considered not implemented, as no dedicated training events on ethical matters had taken place.
44. The authorities of Iceland indicate that a training course was held for prosecutors and others in mid-January on money laundering and anti-corruption measures, in the Icelandic Police Academy. The two day course focused on recommendations from international institutions in this field, such as GRECO, WGB and FATF, but

attention was also devoted to the issues of ethics, integrity and the prevention of conflicts of interests. Participants came from a wide range of agencies, such as police, customs and tax inspectors. Altogether, 90 participants were present, which is a considerable share of those who work in this field. One of the main goals of the course was to identify and discuss those groups that are most at risk regarding corruption, because of their status, access to information and official power. Several lectures stressed the need for integrity, the security of tenure was also discussed and the importance of information sharing among agencies. Further courses are planned focusing, *inter alia*, on case studies for individual groups of officials, among them prosecutors. The new Law on the Office of the District Public Prosecutor No. 47/2015, and related amendments, regarding the system of prosecution in Iceland, is also aimed at strengthening the education and training of prosecutors as well as the general supervision of the Office of the Director of Public Prosecutions. The authorities deem it essential to move this policy forward, particularly, by establishing permanent mechanisms for continuous education to uphold deontological standards in the professions of prosecutors and judges. It should also be noted that the Director of Public Prosecutions has posted on its website, the Budapest rules – Code of Conduct for prosecutors – in addition to making them available in its annual reports. These rules and their implementation provide an important frame for Icelandic prosecutors to uphold the highest ethical standards.

45. GRECO welcomes the update reported, both in terms of the concrete training events on integrity for prosecutors underway, as well as the express recognition in law of training needs. As already stated in respect of training of judges, GRECO can only share the view of the authorities regarding the requisite of initial and continuous education on integrity matters specifically targeted to the challenges that prosecutors may encounter in the development of their work. This, nevertheless, needs to be assured in practice, and, although some positive steps have already been made as listed in the paragraph above, in GRECO's view, more can be done to better guide prosecutors when confronted with conflicts of interest (i.e. deontological standards, training and counselling). GRECO awaits further information in the next reporting exercise regarding forthcoming activities developed in this respect.
46. GRECO concludes that recommendation x has been partly implemented.

III. CONCLUSIONS

47. **In view of the above, GRECO concludes that Iceland has made credible efforts as regards the implementation of the recommendations found to be not or partly implemented in the Fourth Round Compliance Report. Two of the ten recommendations contained in the Fourth Round Evaluation Report have been implemented.** Implementation of most of the remaining recommendations is well underway with six recommendations partly implemented. Two recommendations still remain not implemented.
48. More specifically, recommendations viii and ix have now been assessed as implemented satisfactorily. Recommendations i, ii, v, vi, vii and x have now been partly implemented and recommendations iii and iv remain not implemented.
49. GRECO is pleased to note that the creation of an Inter-Ministerial Steering Group on Implementing International Agreements against Corruption and Bribery has pushed forward reform in the areas reviewed in GRECO's Fourth Evaluation Round. As regards corruption prevention in respect of members of parliament, a Code of Conduct is expected to be adopted in the first half of 2016, a development which is to be welcomed. Moreover, the Althingi is urged to further strengthen the

transparency, efficacy and credibility of the existing financial declaration system. Regarding the judiciary, more needs to be done to address the recommendations issued by GRECO concerning, in particular, the appointment of members of the Labour Court as well as to further reflect on professional and deontological standards. Legislative improvements are in the pipeline to better regulate the selection process of experts to the bench. Moreover, important reforms have been introduced in the prosecution service, which is now structured as a two-tier system, thereby providing for greater independence and impartiality of prosecutorial decisions at district level. Additional steps could be taken to ensure security of tenure for all prosecutors and to better guide them when confronted with conflicts of interest (i.e. deontological standards, training and counselling). Steps on the latter issue have already been taken through a course, which addresses integrity among other things.

50. In view of the abovementioned positive developments, GRECO concludes that the current level of compliance with the recommendations is no longer "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. It therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
51. Pursuant to paragraph 8.2 of Rule 31 of the Rules of Procedure, GRECO requests the Head of the Icelandic delegation to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations i, ii, iii, iv, v, vi, vii and x) by 31 December 2016.
52. Finally, GRECO invites the authorities of Iceland to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make the translation public.