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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

FOURTH EVALUATION ROUND

Adoption: 1 July 2016
Publication: 27 July 2016

Public
GrecoEval4Rep(2016)7

FOURTH EVALUATION ROUND

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

EVALUATION REPORT

CYPRUS

Adopted by GRECO at its 72th Plenary Meeting
(Strasbourg, 27 June – 1 July 2016)

GRECO Secretariat
Council of Europe
F-67075 Strasbourg Cedex
☎ +33 3 88 41 20 00

www.coe.int/greco

Directorate General I
Human Rights and Rule of Law
Information Society and Action
against Crime Directorate

TABLE OF CONTENTS

EXECUTIVE SUMMARY

1. Cyprus has in recent years carried out a number of measures, mostly legislative, in order to curb corruption as well as risks of corruption. To this end, the Law Office has been instrumental as the co-ordinating body against corruption. The tightening-up of criminal legislation against corruption and the development of legislation for the transparency of political financing are prime examples of reforms to adjust domestic legislation to Council of Europe standards and recommendations by GRECO. That said, more remains to be done, in particular, to ensure the full implementation and practical application of new legislation. It would appear that general awareness about corruption in Cyprus has increased over the years but although Transparency International's Corruption Perception Index has ranked Cyprus among countries less affected by corruption (32 out of 168), other surveys indicate that corruption is perceived to be widespread in the country; in particular, in respect of political parties and politicians, whilst the judiciary and the prosecution system enjoy considerably more trust.

2. Turning to the particular focus of the current Report, it is noted that the legal framework of the legislative process in Parliament aims at providing transparency to this process; for example, bills are published in the Official Gazette of the Republic, meetings of the parliamentary committees as well as plenary meetings, are open to the public as a main rule and public consultations appear to be rather frequent. That said, this process is not subject to any detailed legislation and the wider publication of draft bills could well be faster. Moreover, there are only a few rules in respect of who may intervene in the legislative process and the area of lobbying is not regulated at all. As far as individual parliamentarians are concerned, the Report points to the need to develop rules establishing norms concerning conflicts of interest and measures to prevent such situations. To this effect, it is recommended to adopt a code of ethics for members of parliament, dealing with situations such as gifts, third party contacts (lobbying), accessory activities, post-employment situations etc. Moreover, the existing regime of asset declarations in respect of MPs is currently subject to reform. In this context it needs to be ensured that all forms of assets are covered and that they are extended to include information on assets of spouses and dependent persons. The monitoring of such declarations should preferably be independent from Parliament. The Report also supports on-going discussions in Cyprus aiming at reducing the scope of MPs' immunity protection, where it goes beyond the protection of free speech, opinions and voting in Parliament. It is also recommended that MPs in Cyprus be subject to training in ethical matters and that a function of counselling be made available for MPs when faced with difficult situations of conflicting interests.

3. The judiciary in Cyprus has a high degree of independence from the legislature and the executive power, as established by the Constitution. The independence of the judiciary is described as a cardinal feature of the judiciary in Cyprus, including collective and individual independence of judges; nobody may interfere with a judge's judicial duties, including in respect of senior judges over junior judges. The judiciary in Cyprus is based on a two-layer court system, where the Supreme Court is the only appeal instance. The administration of the judiciary is ensured by a self-governing body, the Supreme Council of Judicature, which consists of judges only, more particularly the same 13 judges that make up the Supreme Court. Although this stresses even more the strong independence of the judiciary, it also provides a strong top down approach. Moreover, there may be situations where this composition could lead to conflicting interests within the judiciary, as the distinction between the statutory functions of the Supreme Court and the Supreme Council of Judicature becomes rather artificial in reality. The notion "high moral standards" upon which new judges are to be recruited would benefit from some guidance based on case law and other objective criteria, linked to the integrity of candidates. Despite the fact that judges in Cyprus generally enjoy a good reputation, the Report recommends that a code of ethics for judges be elaborated, with the active

participation of judges of all ranks, as a tool for dealing with various situations of conflicting interests, as well as to serve as a basis for training of judges.

4. The prosecution service in Cyprus forms part of the Law Office, headed by the Attorney General. Considering on-going discussions aiming at more independence for this Office, , the Report recommends that such reforms should also aim at providing a higher degree of independence to the prosecution service as a part of the Law Office and that the prosecuting staff be given more autonomy in conducting their duties. Moreover, new cases coming to the prosecution service ought to be distributed among the staff randomly, to the extent possible, and re-allocation of cases within the service be justified and documented in order to prevent risks of undue influence in this respect. The report also recommends that prosecutorial staff be subject to a particular code of ethics as a complement to the general regulations that already apply to them in their capacity as civil servants. Recent amendments to the Constitution/law providing for obligations to declare assets, liabilities and income are to be welcomed. Finally, efforts to develop induction as well as in-service training for prosecutorial staff in in areas of ethics and corruption prevention are required.

I. INTRODUCTION AND METHODOLOGY

5. Cyprus joined GRECO in 1999. Since its accession, the country has been subject to evaluation in the framework of GRECO's First (in December 2001), Second (in March 2006) and Third (April 2011) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (www.coe.int/greco).

6. GRECO's current Fourth Evaluation Round, launched on 1 January 2012, deals with "Corruption prevention in respect of members of parliament, judges and prosecutors". By choosing this topic, GRECO is breaking new ground and is underlining the multidisciplinary nature of its remit. At the same time, this theme has clear links with GRECO's previous work, notably its First Evaluation Round, which placed strong emphasis on the independence of the judiciary, the Second Evaluation Round which examined, in particular, the executive branch of public administration, and the Third Evaluation Round, which focused on the incriminations of corruption (including in respect of parliamentarians, judges and prosecutors) and corruption prevention in the context of political financing.

7. Within the Fourth Evaluation Round, the same priority issues are addressed in respect of all persons/functions under review, namely:

- ethical principles, rules of conduct and conflicts of interest;
- prohibition or restriction of certain activities;
- declaration of assets, income, liabilities and interests;
- enforcement of the applicable rules;
- awareness.

8. As regards parliamentary assemblies, the evaluation focuses on members of national parliaments, including all chambers of parliament and regardless of whether the members of parliament are appointed or elected. Concerning the judiciary and other actors in the pre-judicial and judicial process, the evaluation focuses on prosecutors and on judges, regardless of the type of court in which they sit, who are subject to national laws and regulations.

9. In preparation of the present report, GRECO used the responses to the Evaluation Questionnaire (Greco Eval IV (2015) 8E) by Cyprus, as well as other data, including information received from civil society. In addition, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Cyprus from 2-6 November 2015. The GET was composed of Mr Nenad KONSTANTINOVIC, Member of Parliament, (Serbia), Mr Peter PALUDA, Supreme Court Judge (Slovak Republic), Dr Athanassios PAPAIOANNOU, former Secretary General of the Hellenic Parliament (Greece) and Mr Björn THORVALDSSON, Public Prosecutor (Iceland). The GET was supported by Mr Björn JANSON, Deputy to the Executive Secretary of GRECO.

10. The GET was received by the Attorney General of Cyprus. It held interviews with members of Parliament and other representatives of the House of Representatives, more particularly MPs representing the Parliamentary Committee on Legal Affairs and the Parliamentary Committee on Institutions, with the Director General of the House of Representatives and with members of various political parties represented in Parliament. The GET met with representatives of the Judiciary, including Supreme Court and district court judges, the registrar of the Supreme Court and members of the Supreme Council of Judicature. Furthermore, the GET met with representatives of the Ministry of Justice and members of the Legal Service (including prosecutors), the Auditor General and some of his staff, representatives of the Committee for Investigation of Incompatibility, the Public Administration and Personnel Department, the Public Service Commission and the

Financial Intelligence Unit (MOKAS). The GET also interviewed representatives of the Bar, the University of Cyprus, Transparency International and the media.

11. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of Cyprus in order to prevent corruption in respect of members of parliament, judges and prosecutors and to further their integrity in appearance and in reality. The report contains a critical analysis of the situation in the country, reflecting on the efforts made by the actors concerned and the results achieved, as well as identifying possible shortcomings and making recommendations for further improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of Cyprus, which are to determine the relevant institutions/bodies responsible for taking the requisite action. Within 18 months following the adoption of this report, Cyprus shall report back on the action taken in response to the recommendations contained herein.

II. CONTEXT

12. Cyprus has a population of almost 1.2 million inhabitants. The GDP per capita is approximately €24 000 and the GDP at current market prices is approximately €18 billion. Cyprus is classified as a high-income economy by the World Bank and was included among countries with advanced economies by the IMF in 2001. Tourism, shipping and international banking are among the most important sources of income in Cyprus. Following erratic growth rates in the 1990's, Cyprus was hit by financial crisis in 2012/2013. The crisis forced Cyprus to implement significant cuts in the public sector, including salary adjustments. Moreover, in return for financial support from the European Union and the IMF, Cyprus was forced to deal with bank deposits from foreigners using Cyprus as a "tax haven". Following a negative growth in the aftermath of the financial crisis, Cyprus returned to economic growth in 2015.

13. Cyprus has, prior to the adoption of the current Report been subject to three evaluation rounds within the framework of GRECO's monitoring. The small size of the population has ever since the first reports of GRECO been highlighted as a risk factor for the development of close relationships between representatives of various parts of society, including politics, the public sector and the business community. In its reports, GRECO has, *inter alia*, called for a comprehensive anti-corruption strategy in Cyprus and the tightening of criminal legislation to fight corruption as primary areas for action. A transposition of the provisions of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191) has been criticised for not being presented as part of a uniform legal framework of the Criminal Code and for not being much applied in practice. While it was acknowledged that Cyprus has in place rather recent legislation regulating political financing, a number of measures to enhance the transparency in respect of the funding of political parties and elections were considered necessary. Over the years it would appear that the general awareness of risks of corruption in Cyprus has considerably increased, and several measures have been dealt with as a result of GRECO's recommendations.

14. According to Transparency International's Corruption Perception Index (CPI), which ranks countries based on how corrupt their public sector is perceived to be on a scale of 0 (highly corrupt) to 100 (very clean), Cyprus has over a number of years received a rather stable score: in 2015, the country was ranked as number 32 out of 168 countries, with a score of 61.

15. In the Anti-Corruption Report 2014 of the European Union, it is estimated that some 78% of the population of Cyprus believe that corruption is widespread in the country (EU average 76%, EU minimum 20%). The same report indicates that only 3% of the population over a period of 12 months have stated that they have been asked or expected to pay a bribe (EU average is 4%). The same report also indicates that some 64% of business representatives consider corruption a serious problem when doing business. It would also appear from that report that only 12% of the population is of the opinion that the government's efforts to combat corruption are sufficient.

16. As far as the focus of GRECO's Fourth Evaluation Round is concerned, it is to be noted that according to surveys carried out for the Special Eurobarometer No. 398-2014, corruption in Cyprus is perceived to be widespread among political parties (52% of the respondents were of such an opinion) and politicians (38%), whereas the courts (27%) and prosecutors (21%) enjoy more trust in this respect, which is similar to the situation in a large number of other European countries surveyed.

17. Reforms in respect of corruption prevention in areas covered by the current report; for example, the scope of immunity protection of members of parliament, legislation concerning conflicts of interest of various public officials, the establishment of codes of conduct and obligations concerning asset declarations are underway in Cyprus. Moreover, it would appear that civil society representatives, as well as the academia to some extent, are part of the discussions which is positive as that has a clear potential for enriching this process.

III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT

Overview of the parliamentary system

18. The Republic of Cyprus is a unitary presidential democracy, based on a written Constitution. The President of Cyprus is both the Head of State and the Head of the Government (Council of Ministers). Legislative power is vested in the House of Representatives (Parliament), according to Article 61 of the Constitution.

19. The House of Representatives is a unicameral parliament. Under Article 62.1 of the Constitution, it is to comprise members, which are to be elected by the Greek-Cypriot community as well as by the Turkish-Cypriot community. It should be noted, however, that after the intercommunal strife of December 1963, the Turkish-Cypriot representatives withdrew from the House of Representatives and the Turkish-Cypriot seats have since remained vacant. Initially, there were 50 seats in Parliament. An increase in the number of representatives was, however, required *ipso facto*, due to the multiplication of the parliamentarians' activities, in particular, as far as their work in parliamentary committees was concerned and their participation in several international parliamentary organisations. The number of representatives may be altered by a resolution of Parliament. Thus, on 20 July 1985, the House took the decision to increase the number of representatives from fifty to eighty: 56 of them would be elected by the Greek Community and 24 by the Turkish Community in order to preserve the 70:30 ratio provided for in the Constitution. The decision to increase the number of seats was taken by invoking the Law of Necessity, since the Constitution calls for separate majorities of Greek Cypriots and Turkish Cypriots in the case of such an amendment. Since the required quorum for the House of Representatives to deliberate is at least one-third of the total number of MPs, the House has continued to function despite the loss of one third of its Members. However, in cases where a special majority is required it can only function by invoking the Law of Necessity so as to overcome the issues raised by the absence of Turkish-Cypriot representation.

20. Members of parliament are elected by universal, direct, secret and compulsory vote for a five-year term of office. Under the Law on the Election of Members of Parliament (Law 72/1979), as amended in 1996, the electoral system applied to the election of members of parliament is close to simple proportional representation. Under this law, Cyprus is divided into six electoral districts, whose size and boundaries correspond to those of the State's six administrative districts. The division of seats into each district is determined by the abovementioned law. Currently, there are 56 MPs in the House of Representatives (18% women and 82% men).

21. Members of parliament represent both their political group and the constituency which elected them into office. At the same time they are expected to represent and safeguard the public interest. They are to vote in accordance with their conscience.

22. Article 64 of the Constitution provides that a person is qualified to be a candidate for election to the House of Representatives provided that s/he:

i. is a citizen of Cyprus;
ii. has attained the age of twenty-five years;
iii. has not been convicted of any offence involving dishonesty or moral turpitude or is not under any disqualification for any electoral offence;
iv. is not suffering from a mental disease incapacitating him/her from acting as an MP

23. Article 71 of the Constitution provides that the seat of an MP becomes vacant in any of the following circumstances:

i. upon his/her death;
ii. upon his/her written resignation;
iii. if s/he has been convicted of an offence involving dishonesty or moral turpitude or is under a disqualification imposed by a competent court for any electoral offence or if s/he is suffering from a mental disease incapacitating him/her from acting as an MP or if s/he ceases to be a citizen of the Republic of Cyprus; and
iv. upon becoming a minister or a member of a communal chamber, a member of a municipal council, mayor or a member of the armed security forces of the Republic or a public or municipal office or, in the case a member belong to the Turkish-Cypriot community or holds a religious function.

24. It should be added that the Law on Religious Groups (Representation) of 1970 (Law 58/1970) provides for parliamentary representation of each of the three religious minorities present in Cyprus. Each one of these groups is represented in the House by one person, who is elected by the members of his/her respective group according to the provisions of the Electoral Law. The term of these representatives is the same as that of the members of parliament, they also enjoy the same rights and privileges as MPs, they participate in the House Standing Committee on Education, attend plenary meetings of the House and express their views on matters concerning their group, but they have no right to vote. That said, their views are to be taken into account, and if they have dissenting opinions, those must be reflected in reports submitted to the plenary.

25. The House of Representatives works in plenary sessions and in committees. Article 73.3 of the Constitution provides that the Committee on Selection shall set up the Standing Committees and any other temporary, *ad hoc* or special committees and is to appoint the representatives to be members thereof. In doing so, due regard is to be paid to the proposals made by the Greek and the Turkish Communal groups or political party groups in Parliament. Furthermore, paragraph (1) of Rule 37 of the Rules of Procedure of the House of Representatives (RoP) provides that the Committee of Selection is to appoint the chair person and his/her replacement and the members of each committee. The composition of committees is published on the website of the House. Currently, there are committees established to deal with different areas of concern, such as agriculture, communications, educational affairs, energy, foreign affairs, internal affairs, legal affairs etc. Moreover, there is the *ad hoc* committee on the Review and Update of the Rules of Procedure and the Special House Committee on Declaration and Examination of Financial Interests. The GET was informed that, currently, there are 20 committees out of which 17 are standing committees (agriculture, communications, defence, education, energy, environment, finance, foreign affairs, health, human rights, institutions, internal affairs, labour, legal affairs and refugees) and two *Ad Hoc* House committees (on the Review and Update of Rules of Procedure and on Cyprus Airways and the Special House Committee on Declaration and Examination of Financial Interests). The standing committees also have the authority to institute sub-committees on specific issues.

Transparency of the legislative process

26. The Council of Ministers, by virtue of the Constitution (Article 54) and individual parliamentarians through private bills (Article 80) are competent to initiate draft laws before Parliament. Most often, draft laws are submitted to Parliament by the Government The GET was told that around 70% of all bills were submitted by the Government and 30% by individual MPs. Before a government bill is submitted to the House of Representatives, the ministry responsible for the issue normally provides for consultations with interested parties, which may include other government departments, non-governmental organisations and citizen groups, as well as individual citizens. At this stage, draft legislation is published, either on the website of the pertinent ministry, by the media or is sent directly to the various stakeholders concerned for their comments.

27. The Ministry of Finance has issued a Consultation Guide[1] to be followed when drafting legislation which includes guidelines on how to deal with and incorporate views received during the consultation into a final proposal. Furthermore, a questionnaire that is to be filled out prior to submitting the proposal to the Government for approval is also available. The said the questionnaire has to accompany all bills at all stages of the legislative process (i.e. at the Council of Ministers for approval, at the Law Office for the legal vetting and at the House of Representatives for adoption). There are no binding provisions in respect of consultations at this stage; however, the GET was informed that public consultations were applied as a rule. All bills are to be accompanied by an explanatory note, which has to be checked and signed by the Attorney General of the Republic, in his/her capacity as the Legal Advisor of the Government.

28. Obviously, the described pre-parliamentary public consultation procedure is not followed in respect of the drafting of private bills although there are often unofficial contacts between the MP(s) proposing such bills and other interested parties. Also bills submitted by individual MPs have to be accompanied by an explanatory note, which is to be signed by the MP/political party responsible for the proposed legislation (Rules 49 and 50 of the Rules of Procedures of the House of Representatives, RoP).

29. As far as the legislative process in Parliament is concerned, Rule 51 of the RoP provides that bills, including private bills, are to be introduced to the House during its sittings and are to be published as early as possible in the Official Gazette of the Republic. Copies of any bill are to be distributed to all MPs as quickly as possible after their introduction to the House. This means, according to the authorities, on the day of the plenary meeting in which they are laid before Parliament. Bills are also to be made available immediately upon request to anyone by the Registry or Parliamentary Committee Service by fax, e-mail or ordinary mail. That said, the GET also heard that it may take up to two weeks before a new bill is made officially public by the Official Gazette. The GET could not substantiate the correctness of this information, but takes the view that bills should ideally be made public on the same day as they are deposited in Parliament, possibly on the website of the Parliament. Such a measure would not replace but be complementary to the publication in the Official Gazette. In this connection, the GET was pleased to learn that improvements for use of the website of the House were under consideration.

30. The submission of a bill to Parliament is followed by the "committee stage" of the legislative process, during which the various competent parliamentary committees scrutinise the draft legislation within their respective competence.

31. A pertinent committee may act as a second platform for public consultation since the committees have the right to call upon any interested party to provide information and evidence and express its views or opinions in respect of any bill pending before the committee, including ministries and governmental departments. Each committee is free to determine the procedure for their consultations, which in most cases take place as oral hearings during the committee meetings or on the basis of written information submitted to the committee. The relevant provisions are contained in paragraphs (4), (5) and (7) of Rule 42 RoP. A committee can never be obliged to carry out public consultations; however, the GET was informed that public consultations are being used as a main rule (except for situations of urgency etc.). Moreover, the meetings of parliamentary committees are also, as a main rule, open to the public (Rule 46A RoP), unless the committee deems it necessary to hold a closed meeting on a particular subject (e.g. defence issues). One exception to this main rule is that the stage of adoption of the committee's final position is always to be held in camera. Even so, the final position itself is included in the report prepared by the committee for consideration by the Plenary.

[1] http://www.betterregulation.org.cy/LinkClick.aspx?fileticket=nG1ay4Hox9s%3d&tabid=76&mid=465>

That report is to be published on the House's website and included in the minutes of the Plenary, which are also published, both in print and on the website.

32. Although committee meetings, normally, are open to the public and to the media, and the content of the meetings is not confidential as such, the concise minutes held during committee meetings are confidential and may only be distributed to a non-MP upon permission by the Speaker of the House. The Speaker would investigate any disclosures without permission (Rule 46A paragraph (4) RoP).

33. The agendas of parliamentary committee meetings and the reports submitted by the committees to the Plenary are published on the House's website and distributed to parliamentary reporters. The titles of draft laws and private bills submitted to Parliament are also published on the House's website. Furthermore, any document received during the committee's deliberation is deemed to be non-confidential and is made available to the public unless the person submitting the document in question explicitly requests that it remains confidential (Rule 42 RoP).

34. The Constitution, Article 75, expressly states that plenary meetings of the House of Representatives are open to the public and that this can only be altered with a three-quarters' majority vote among the total number of MPs.

35. The minutes of the proceedings of the House of Representatives are to be printed, published and distributed to the Representatives (Rule 69 RoP). Furthermore, the minutes of the plenary sessions are available, not just in printed form, but also on the House's website. There used to be a weekly television programme, in cooperation with the Cyprus Broadcasting Corporation, to showcase the work done in Parliament during the week, but it was discontinued (due to the financial crisis) and the ambition is now to broadcast sessions live through web streaming.

36. Moreover, the authorities informed the GET that important plenary meetings (e.g. state budget) are broadcast live by the Cyprus Broadcasting Corporation and the radio (and interpreted into Turkish). All television channels are granted access to take video footage of the entirety of plenary meetings. Despite this possibility, the GET was also told that only in rare cases is there live television broadcasting from Parliament. Access to take video footage is granted to all television channels in the case of parliamentary committee meetings.

37. Voting in Parliament is not secret but by show of hands in the open plenary sessions; yet the minutes do not record the vote of each member, but only the total number of votes for or against a proposal and the total number of abstentions. However, the parliamentary groups' positions are recorded in the report submitted by the committees to the Plenary, which is available to the public.

38. The GET acknowledges that the legal framework of the legislative process in Parliament is aimed at providing transparency of this process, if applied as intended. At the same time, the GET notes that the legislative process is not regulated in a detailed manner. While it is to be welcomed that the use of public consultations, although not obligatory as such, appears to be the rule rather than the exception during the parliamentary process in Cyprus, the GET also came across criticism suggesting that this process is not sufficiently transparent; some interlocutors met by the GET insisted that strong links between lawmakers and influential groups from the outside community, including the business sector, have an important impact on the legislative process, through silent forms of lobbying and the like. Although these allegations were contested by a number of MPs, the GET cannot disregard them, as they are built on surveys, as well as the fact that lobbying is unregulated in Cyprus. The GET is of the opinion that the lack of regulations in respect of who might influence in the legislative process is to be considered a risk area of corruption in itself. Moreover, such a situation may also

undermine peoples' confidence in the democratic process at large. This situation calls for measures, in particular to find out the scale of the problem and to take appropriate steps to bring more transparency into the legislative process. This matter is further dealt with in the context of third party contacts and lobbying, below (paragraph 67).

Remuneration and economic benefits

39. In 2014, the average gross annual salary in Cyprus was €35 574 (€2 736 per month), according to the Statistical Service data.

40. The annual gross income of members of parliament in Cyprus is €82 975.21. This total annual income can be broken down per month in basic salary (€3 640), secretarial services allowance (€1 025.16), representation allowance (€1 945) and at the end of the year salary (€3 640). MPs also have the right to make deductions for tax purposes in respect of pension schemes, medical care, political party contributions etc. The salary is adjusted according to price index and the general salary adjustments. Members of parliament are not expected to work on any scheduled basis, and since they are allowed to have a profession whilst being parliamentarians (except for certain occupations which are listed in the Constitution and certain activities listed in the relevant legislation, dealt with below), they are not expected to work on a full time basis on their parliamentary duties.

41. Furthermore, MPs are entitled to a pension scheme depending on their term of service - a lump sum (gratuity) of €75 729 for the members who have been in office for one five-year term or €185 114 for those who have had two or more five-year terms. In addition, MPs are entitled to a monthly pension of €1 352 after one five-year term and €3 305 following two or more five-year terms. MPs are not entitled to any of the above mentioned benefits after their term of office has finished, except for pensions.

42. The Constitution of Cyprus (Article 84) provides that MPs receive from the public revenue remuneration defined by law. The budget for the parliamentary office is provided from the Annual State Budget, which is a public document provided for as a law and subject to adoption by Parliament every year. The Law on the Annual State Budget is published in the Official Gazette of the Republic.

43. There is no special provision obliging MPs to disclose to the public any information about the use of the abovementioned benefits. However, the GET was told that members every now and then disclose such information to the media of their own accord. The General Auditor's Office exerts control over all the expenses of the House of Parliament in general, including the benefits of members.

44. Moreover, the salary of a member's assistant for parliamentary work is also provided in the state budget, in the form of state subsidies to political parties. Parliament pays the relevant amounts directly to the assistants, based on the information received by the parties. In addition, public resources are engaged in order to supplement the office of the member in the parliament building. More specifically, their offices are maintained by the House of Representatives in respect of furniture, office supplies and other necessities, such as internet access. The offices are also equipped with desktop computers (including software), laptop computers, phones and photocopier/printer. Members are also provided with a facsimile machine per parliamentary group.

45. The GET was informed that MPs are currently not hindered from receiving private donations to their offices and there is no special obligation for them to report anything concerning such supplementation to their offices. This is further dealt with under gifts, below.

46. The GET came across information that the Government was in the process of considering an overhaul of all salaries and allowances of public officials (appointed as well as elected) and that MPs were affected by this as well. More particularly, the GET was told by some MPs that there were on-going discussions about introducing a system based on a flat salary rate which might replace the various allowances in order to bring more clarity to this area. The GET understood that people from outside Parliament had confused ideas in respect of MPs' salaries and other benefits as a result of complex rules in combination with a low level of transparency. The GET also noted in this context that the allowances provided to MPs were not subject to systematic auditing or control. The GET believes that the current situation creates a level of uncertainty in respect of allowances which are related to expenses, which could well be remedied if MPs instead were to be given a flat rate salary. Moreover, clear rules on their remuneration ought to be disclosed to the wider public and in case an MP received benefits to his/her office etc. from private sources, that should clearly be regulated and subject to public transparency. The GET therefore supports the on-going reform in as far as it goes in such a direction. Consequently, **GRECO recommends that all forms of remuneration and benefits received (from public and private sources) by members of parliament be subject to clear rules, adequate auditing and public transparency.**

Ethical principles and rules of conduct

47. The core ethical principles/values of Parliament and parliamentarians are contained in the Constitution and the Rules of Procedure of the House of Representatives (RoP). It is stated in Article 69 of the Constitution that a member of parliament, before assuming the duties as such, is to make the following affirmation at a public meeting in Parliament: "*I do solemnly affirm faith to, and respect for, the Constitution and the laws made thereunder, the preservation of the independence and the territorial integrity, of the Republic of Cyprus*". A similar provision exists in the Rules of Procedure. In particular, Rule 35 RoP, which provides that during the sittings of the House and of committees, representatives must observe the provisions of these rules and have due respect for the Constitution and the functions of the State.

48. Furthermore, members are also expected to uphold a certain level of dignity and standard of behaviour during debates in Parliament, not to interrupt MPs who are given the floor, avoid abusive language and personal attacks against other members etc. Such rules of conduct are to be found in the Constitution (e.g. Article 73.9) and in the Rules of Procedure (Rule 36 RoP). The procedure for debates is also regulated in detail in Rule 42 RoP. Furthermore, Rule 15 RoP provides for mandatory presence of MPs in committee and plenary meetings and Rule 17 RoP provides for a notification requirement in case of a member's absence from committee or plenary meetings.

49. One of the consequences of the separation of powers enshrined in the Constitution of Cyprus is that the House of Representatives is not to interfere in any way with a case pending before a court of law; Rule 28 RoP prohibits MPs from speaking in a way that prejudices fair trial before the courts.

50. The Speaker of the House has the overall responsibility for ensuring that the constitutional requirements, legislation and the procedural rules are applied as intended, which is explicitly mentioned in Rule 8 RoP.

51. The GET notes that while the basic constitutional principles of the State, including the separation of powers, fundamental rights and liberties, regulation of various state functions such as the President of the Republic, the government, the judiciary and the House of Representatives etc., also to some extent provides for some ethical principles, the Constitution cannot be considered as more than a broad framework for the ethical behaviour of MPs. Moreover, the Rules of Procedure of the House of Representatives provides a fairly detailed catalogue of regulations for the running of the work in

Parliament. It deals specifically with organisational matters in respect of the debates, the functions of the various officials, as well as in respect of obligations and behaviour of its members. However, this instrument is to a large extent a procedural tool and as such, it also gives some limited guidance concerning the conduct of individual MPs, some examples of which are referred to above. That said, these rules do not comprise comprehensive guidance in respect of certain ethical dilemmas that MPs might be faced with in their daily functions. The GET was pleased to learn that work on establishing a code of ethics/conduct of members of parliament was on-going. This task had been given to the parliamentary Committee on Institutions, Merits and Ombudsman, in co-operation with the parliamentary Committee on Legal Affairs. The University of Cyprus has been commissioned to produce a research paper for this project. The GET was told that the expected outcome of this work is to establish new legislation to be supplemented by a code of ethics/conduct for members of parliament, with a particular focus on conflicts of interest. The GET understood that this project was still at an initial stage; draft texts did not exist at the time of the visit.

52. In this context, the GET wishes to draw attention to the often expressed view in GRECO reports concerning the establishment of common standards and guidelines for ethical principles and expected conduct of MPs. Among other things, in order to be influential, such codes require strong involvement by the MPs themselves. Experience shows that the mere process of developing such standards will raise MPs' awareness of integrity issues, assist them to act proactively in difficult ethical situations and – importantly – to demonstrate their commitment vis-à-vis the general public. A code of ethics may have the potential to raise public confidence in the House of Representatives and its members, an issue which would appear particularly important in Cyprus (see Context, above). Such codes may also have a bearing on those who work on behalf of the MPs as well (employees, assistants etc.). The GET also wishes to stress that codes of ethics/conduct are not meant to replace existing constitutional rules, legislation or other forms of regulation, such as the Rules of Procedure, but rather to further develop such regulations, to clarify and provide practical guidance in a flexible way in situations which may give rise to controversies and conflicts of interest. Furthermore, such codes are often less static than legislation and may need to evolve over time. They should preferably be connected to some kind of enforcement or disciplinary mechanism. In view of the above and with reference to Guiding Principle 15 of Resolution (97) 24 of the Committee of Ministers of the Council of Europe on the twenty guiding principles for the fight against corruption, **GRECO recommends that a code of ethics/conduct for members of parliament - including their staff as appropriate – be adopted, covering various situations of conflicts of interest (e.g. gifts and other advantages, third party contacts, lobbyists, accessory activities, post-employment situations).**

Conflicts of interest

53. It was explained to the GET that preventive measures in respect of conflicts of interest involving members of parliament are foreseen in various regulations. As a starting point, the Constitution, Article 64, establishes the eligibility criteria before an MP is elected. More relevant are the regulations in Articles 70 and 71 of the Constitution which enumerate activities which are incompatible with the holding of a parliamentary office, for example, it would be incompatible for an MP also to be a minister.

54. Furthermore, the Law on the Incompatibility in Exercising the Duties of Certain Officials of the Republic and Specific Profession and Other Relevant Activities (Law 7(I)/2008)[2] also deals with what is to be considered as incompatible in respect of *actions,*

[2] The GET was informed after the visit that this law was subject to amendments, which had not been enacted as the President of the Republic had submitted the amendments to the Supreme Court to test their constitutionality.

activities or functions in relation to certain officials included in an annex to the 2008 Law (the President of the Republic, the President of the House of Representatives, the Attorney General, ministers and members of parliament etc.), (section 3 of the 2008 Law. Importantly, the 2008 Law, section 4, also provides for a monitoring function in the form of the dedicated Committee for the Investigation of Incompatibilities, which is described under "*Supervision and enforcement*", below.

55. The GET notes that the current system for preventing conflicts of interest is designed to exclude certain actions, activities and functions as incompatible with holding certain public offices, including that of members of parliament. It is to a large extent focused on potential conflicts of interest (incompatibilities) which are listed in the 2008 Law on the Incompatibility in Exercising the Duties of Certain Officials of the Republic and Specific Profession and Other Relevant Activities. The GET came across rather developed criticism in respect of the efficiency of the approach chosen in the 2008 Law. It understood that a revision of this legislation was being discussed and that an academic report was instrumental in this respect. In essence, the 2008 Law has been criticised for being too narrow in scope, i.e. that it only deals with potential incompatibilities and not with conflicts as they emerge, which is only one part of a broader notion of conflicts of interest. Moreover, the GET was told that the list of potential incompatibilities itself was also too narrow; it does not refer to managing posts in all forms of entities (e.g. co-operatives). The GET learned that a possible outcome of the on-going considerations was to establish a broader and generic approach to conflicts of interest. The GET would concur with such an approach.

56. In addition, the Rules of Procedures of the House of Representatives (RoP) provide guidance as far as the MPs' work in committees is concerned; Rule 44 RoP makes clear that members of parliament have an obligation to declare any personal interest they may have in relation to a matter under discussion at the beginning of the committee meeting or at the point when such an interest becomes evident (*ad hoc* declaration). Moreover, during discussions in committees any personal interest is to be declared and the member affected by such an interest should abstain from voting in that instance. Rule 44 specifically provides the following: "In case a Member of a Committee has a direct personal interest in relation to the matter under consideration by a Committee, s/he should inform accordingly the Chairman and the Members of the Committee at the opening of the meeting or as soon as the existence of such an interest becomes evident in the course of the discussion". The GET noted with interest that, in addition to the potential conflicts of interest legislation applying in respect of any public official, members of parliament have an additional obligation to declare personal interests they may have in relation to a particular matter (a bill etc.) under discussion at the beginning of the committee meeting or at the point when such an interest becomes evident. Such *ad hoc* declarations are of great importance. That said, the GET notes with concern that this declaration requirement is only applicable in respect of committee meetings, according to Rule 44 RoP.

57. In view of the above, the GET was pleased to note a general awareness that questions relating to conflicts of interest are much broader than the more traditional notion of "static" incompatibilities, provided for in current legislation. The fact that MPs are permitted to, and do to a large extent in practice, exercise other functions to those of being a member of parliament is common to some democracies but this only underlines the need to have a modernised legal framework that will set clear cut legal standards. Therefore, the GET strongly supports a revision of the legislation concerning prevention of potential conflicts of interest in order to provide for a broader scope in this area. Moreover, the GET is of the opinion that a general requirement to prevent actual conflicts of interest as they emerge (*ad hoc*) in line with what is in Rule 44 RoP, is an important tool to prevent conflicts of interest; however, such a tool must not be limited only to committee meetings, as follows from Rule 44. Although the authorities have submitted that this rule also applies in respect of plenary meetings (*mutatis mutandis*), the GET is

of the opinion that this needs to follow from the rules themselves, if not in legislation proper, and be coupled with adequate sanctions in order to be efficient. In view of the foregoing, **GRECO recommends that the preventive measures against conflicts of interest in respect of members of parliament be enhanced in respect of potential conflicts as well as in respect of conflicting interests that may emerge during parliamentary proceedings and that clear rules for the disclosure of such situations be articulated in written form.**

58. It goes without saying that the importance of an efficient supervisory mechanism in respect of the monitoring of the implementation of conflicts of interest regulation is crucial for the system to function. The functioning of the current Committee for the Investigation of Incompatibilities is further discussed under "Supervision and Enforcement", below.

Prohibition or restriction of certain activities

Gifts

59. There are no regulations concerning to what extent gifts may be received by MPs; the authorities stated that MPs are nevertheless supposed to declare gifts, received by persons or delegations in meetings, to the Financial Administration Service of Parliament irrespective of their value. The gifts are registered in an electronic register, which also contains all other property of the House to which there is restricted access and to which the Auditor General of the Republic has access. The authorities point out that such gifts may also fall under the provisions of the Law on Illicit Enrichment of Certain Public Officials (Law 51(I)/2004) which criminalises the illegal acquisition of property by officials. Furthermore, if a gift comes close to corruption, then it is regulated by the provisions of the Law on the Ratification of the Criminal Law Convention on Corruption [Law 23(III)/2000] as amended by Law 22(III)/2012, which provides for the criminalisation of a number of acts, including bribery of members of domestic public assemblies. It may also fall under sections 100 and 101 of the Criminal Code, which establishes the offence of corruption of an official and extortion by public officers respectively.

60. Leaving aside the criminal law provisions on bribery and other corruption offences, there are currently no written rules or instructions to MPs concerning the acceptance of gifts e.g. in the context of official visits. Likewise no rules exist on the acceptance of other forms of gifts, clarifying the distinction between acceptable and unacceptable benefits/gifts. The GET wishes to highlight the connection between this general issue with the particular concern raised above concerning the lack of regulation, also in respect of benefits received by MPs for their offices etc. (paragraph 45), which require clear rules as well. In view of these findings, **GRECO recommends i) that consistent rules be elaborated concerning the acceptance by members of parliament of gifts, hospitality and other benefits including special support provided for parliamentary work, and ii) that internal procedures for the valuation and reporting of gifts, and return of those that are unacceptable, be developed.**

Incompatibilities and accessory activities, post-employment restrictions

61. As stated above, under Article 70 of the Constitution, being a member of parliament is incompatible with that of being a minister or a member of a communal chamber or of a municipal council, including being a mayor. It is also incompatible with being a member of the armed or security forces of the Republic or with being a member of a public or municipal office or, in the case of a representative elected by the Turkish Community, a religious functionary. For the purposes of this Article, "public office" means any office of profit in the service of the Republic, or of a communal chamber, the

emoluments of which are under the control either of the Republic or of a communal chamber and includes any office in any public corporation or public utility body.

62. Likewise referred to above, the Law on the Incompatibility in Exercising the Duties of Certain Officials of the Republic and Specific Profession and Other Relevant Activities (Law 7(I)/2008) provides for incompatibility with certain actions, activities or functions in relation to certain officials, including members of parliament. The incompatibilities are set out in section 3(1) of the Law. The text of the relevant provisions reads:

> *"(1) Subject to the provisions of the Constitution relating to incompatibility and the relevant to each office laws and regulations, the following actions, activities or functions cannot be undertaken, effected or concurrent in the person of any official or throughout his term of service in the office:*
> *(a)The provision to the public sector or to any public entity of legal, auditing, accounting, advisory, including the preparation of studies or any other nature of services;*
> *(b)the function of a member of a board of directors, a managing director, a general manager or their substitutes of a company, partnership, joint venture or business of the public sector to which any public contract for the provision of goods or the undertaking of a project or the provision of any services has been awarded or will be awarded;*
> *(c)the submission of a bid or the undertaking of any contract for the provision of works or services to the public sector to any public entity or a governmental or quasi-governmental company by the official himself or by a company, partnership, joint venture or business of which he is part either as a simple shareholder or as a member of the board of directors in any capacity, or as their legal advisor;*
> *(d)the function of a director or a member of the board of directors of a public entity; and*
> *(e)the function of a member of a board of directors or a manager of a private company or the function of a member of the board of directors or a manager of a quasi-governmental organisation who deals with electronic or print means of communication."*

63. There are no other restrictions in the law in respect of what MPs are allowed to do in terms of professional occupations outside Parliament. The fact that MPs are permitted to, and do to a large extent in practice, exercise other functions to those of being a member of parliament underlines the need to have a modernised legal framework that will set clear cut legal standards, as noted above under "conflicts of interest". Related to this, there are no restrictions as to employment of members of parliament after their term of office has ended. In this context, the GET recalls that GRECO has repeatedly held that members of parliament could possibly engage in particular matters (including legislation) in Parliament while having in mind interests that would come into play during their mandate or upon leaving Parliament. The authorities are encouraged to reflect on the necessity of introducing further rules/guidelines for such situations.

Financial interests, contracts with State authorities, misuse of public resources, third party contacts (lobbying)

64. There is no prohibition or restriction on the holding of financial interests by MPs to the extent that such financial interests do not violate the Law 7(I)/2008. However, MPs are subject to the obligation to declare such interests, which is described in detail, below ("Declaration of assets etc.").

65. In addition to the general rules to avoid incompatibilities and to disclose such situations, there are specific rules in place concerning MPs entering into contracts with state authorities or providing services to state organs. According to Law 7(I)/2008, section 3(1)(a) "… *provision to the public sector or to any public entity of legal, auditing, accounting, advisory, including the preparation of studies or any other nature of services*" would constitute an incompatibility and cannot be undertaken by an MP. Moreover, the authorities also refer to the general rules on public procurement in such situations.

66. The misuse of public resources is not specifically regulated with regard to members of parliament. However, as stated above, misuse of their position for their own

gain is regulated under the Law on Illicit Enrichment of Certain Public Officials (Law 51(I)/2004) which criminalises the illegal acquisition of property by officials, including Members of Parliament. Moreover, Section 105 of the Criminal Code criminalises abuse of office: "Any public officer who does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanour. If the act is done or directed to be done for purposes of gain, he is guilty of a felony and is liable to imprisonment for three years".

67. As already noted in this report, there is no regulation on members of parliament in respect of their contacts with third parties, more than the criminalisation of actions where MPs take advantage of their office in order to illicitly gain a pecuniary advantage. As noted above in the context of the transparency of the legislative process, the GET has expressed concern about information provided by a number of interlocutors, claiming that there are "unseen" links in Cyprus between lawmakers and external interlocutors, such as lobbyists, which may have far reaching influential impact in respect of the decision making process in Parliament. The GET was informed that the issue of lobbying has been subject to discussion in parliamentary committees in the past, but no official position has been adopted by the House on this matter. The GET also discussed this matter with various state representatives and MPs who gave the impression that lobbying does not appear to exist in Cyprus. Contrary to that, representatives of civil society say that the practice of private actors trying to influence public officials is "rife". This is to a large extent built on perception studies, according to which Cyprus is considered extremely affected by informal lobbying by influential individuals and entities. These allegations are presented in a report, published in 2014, by Transparency International Cyprus[3]. Even though the situation concerning lobbying may need to be further examined before a more precise description of the situation can be made, the GET cannot disregard the indications submitted by civil society. Furthermore, it would even appear unlikely that various forms of third party involvement do not exist in Cyprus, in contrast to the situation in other member States. The GET therefore sees a clear need to consider the situation of third party contacts carefully and to introduce regulatory measures in order to bring more transparency to this area. Consequently, **GRECO recommends i) that a detailed assessment be carried out in respect of various forms of potential third party impact (including lobbying); and ii) that rules be introduced for members of parliament on interaction with third parties that may seek to influence the parliamentary process.** The GET wishes to stress that such regulations ought to be further guided in instruments such as codes of ethics and conduct (see paragraph 52).

68. Rule 46A RoP provides, *inter alia*, that should a document which is classified as confidential be distributed to the members of a committee, any notification concerning its content to any person other than other representatives is not permitted, unless the chairperson of the committee consents thereto (paragraph 3). Moreover, in case of a leak of such a document, the President of the House is to ensure the investigation of the case and submit a relevant report to the Plenary of the House (paragraph 4).

69. In addition, according to Section 135 of the Criminal Code, any public officer who publishes or communicates any information or fact which comes to his/her knowledge by virtue of his/her office and which it is his/her duty to keep secret or any document which comes to his/her possession by virtue of his/her office and which it is his/her duty to keep secret, except to some person to whom s/he is bound to publish or communicate, is guilty of a misdemeanour, "*violation of official secret and disclosure of state secret*". Also, any person who discloses a state secret, without being duly authorised to do so, is guilty of a misdemeanour.

[3] TI Cyprus, report "Lifting the lid on Lobbying", mapping the lobbying landscape in Cyprus.

Declaration of assets, income, liabilities and financial interests

70. According to the Law on the Declaration of Assets and Audits of Property of the President the Ministers and the Members of Parliament (Law 49(I)/2004)[4], members of parliament are obliged to submit asset declarations to the Specialist Parliamentary Committee established by virtue of section 5 of the same Law. These declarations are to be done within three months of the MP coming into office and every three years thereafter for the duration of their office, as well as within three months from the end of their term in office (Section 3).

71. The GET was initially in doubt whether this legislation was currently being implemented, following a decision by the Supreme Court that such declarations had been considered unconstitutional as violating the right of privacy (Article 15 of the Constitution). Against this position, a number of MPs stressed that Law 49(I)/2004 had never been considered unconstitutional by the Supreme Court and that they regularly submit asset declarations in accordance with this Law. This issue was discussed at length and the matter was subsequently clarified by the authorities stating that the Supreme Court decision (on appeal *94/2008, Republic v. Kyprianou (2011)3 CLR 424*) was about another piece of legislation, namely the Law on the Declarations of Assets and Audit of Property of Certain Officials (Law 50(I)/2004), which does not concern MPs, but other officials. While the GET had no reason to doubt that declarations were generally being submitted by the MPs as foreseen in the Law 49(I)/2004, the constitutionality of this legislation could possibly be challenged, as it deals with almost identical declaration requirements as those in Law 50(I)/2004; the main difference being that these two pieces of legislation cover different categories of public officials. In the view of the GET, it could not at the time be excluded that Law 49(I)/2004 might also be considered unconstitutional should it be challenged before the Supreme Court. In this connection, the GET was informed on-site that amendments in respect of Article 15 of the Constitution were underway in Cyprus in order that this matter of a general nature be solved. After the visit, the GET was informed that Article 15 of the Constitution had been amended on 28 April 2016 (Law 69(I) 2016) to contain an explicit provision to the effect that measures taken in the interest of transparency of public life or for the purpose of measures against corruption in public life do not interfere with the right to private and family life. The GET accepts that this amendment appears to eliminate the possible unconstitutionality under Article 15 of an obligation to submit asset declarations under Law 49(I)/2004.

72. Section 4 of the Law 49(I)/2004 provides information on the content of the declarations that is required. Furthermore, the format of the declarations as submitted is described in an Annex to the Law. The following information is to be included in the declarations:

> *(a) Immovable property, including titles and encumbrances on such property with full description of the type, the extent, the topographical data, the means, the time and the value of the property at the time it was acquired;*
> *(b) all types of mechanical means of transport, including sailing vessels;*
> *(c) the material financial interest in any business;*
> *(d) all kinds of assets comprising of securities, debenture, shares and dividends in his own financial interest in private and public companies, deposits in commercial banks, savings banks or cooperative companies, income or benefits from insurance contracts and any other income.*
> *(e) In addition, the declarations are to include any differentiation in the assets which has occurred after the immediately preceding declaration, along with sufficient explanation to justify this differentiation; and*
> *(f) a statement of the debts held by the MP.*

[4] The GET was informed after the visit that this law was subject to amendments, which had not been enacted as the President of the Republic had submitted the amendments to the Supreme Court in order to test their constitutionality.

73. The GET acknowledges that Law 49(I) 2004 provides for a fairly complete list of assets, income and liabilities to be declared, following a predefined format contained in an annex to the Law 49(I)/2004. That said, it would appear that the assets, as detailed in the law, do not appear to include any form of movable property as these have been limited in the text to vehicles, shares, debentures and other such forms of securities. It is not clear to what extent the current law would include all types of tangible assets. The GET also notes that while it follows from the law that the value of immovable property and vehicles is to be included, it appears less clear whether the value of other types of property is required.

74. Currently, section 8 of Law 49(I) 2004 provides that the asset declarations are confidential and making them public would even amount to an offence. The GET notes that the requirement of confidentiality was necessary not to violate Article 15 of the Constitution in its previous version. That said, with the recent amendments to Article 15 of the Constitution, this would appear to no longer be the case. Moreover, legislation that would provide for mandatory publication of assets held by the officials of the Republic, including members of Parliament appears to be underway. The GET welcomes the on-going legislative reform to make the declarations of assets publicly available. In this respect, it is recalled that this is fully in line with the large number of GRECO member States that oblige MPs to declare their assets; most often these regimes provide for a system where the declarations are made available for public scrutiny, including on-line. The GET supports such a trend in Cyprus.

75. Moreover, the GET notes that Law 49(I)/2004 stipulates that the MPs are also to declare assets, income and liabilities in respect of "underage offspring". There is no equivalent obligation in respect of other dependent family members or spouses. This situation provides for a risk that the declaration regulations be circumvented by transferring property to such persons. The GET therefore sees a need to enlarge this group of persons to cover a broader range of close relatives. In the current system the declarations are not made public; however, should that change, the GET recalls that according to GRECO's practice, it would not necessarily be required that the declarations as far as these concern spouses and dependent family members be covered by the same transparency rules as the declarations regarding the MPs themselves.

76. In view of the above, **GRECO recommends that the existing regime of asset declarations be further developed i) by ensuring that all forms of assets, income and liabilities above a certain threshold be declared at their appropriate value; ii) that the declarations be made publicly available promptly after their submission to the appropriate supervisory body; and iii) by considering widening the scope of the 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).**

Supervision and enforcement

Election legislation

77. The authorities refer to the Law on the Election of Members of Parliament (Law 72/1979), according to which the right of a person to come into or remain in office as an MP may be challenged before the Election Court for reasons of corruption, improper influence, and ineligibility at the time of the election. Such proceedings must, however, be initiated within one month from the election day by the Attorney General or by a voter registered in the electoral roll. It may result in a declaration that the election of an MP is invalid.

Criminal proceedings

78. Article 83 of the Constitution of Cyprus provides for immunity in respect of members of parliament. More precisely, members of parliament are not liable to civil or criminal proceedings in respect of any statement or vote made by them in the House of Representatives (Article 83.1 of the Constitution). Moreover, a representative cannot, without leave given by the Supreme Court, be arrested, prosecuted or imprisoned under his/her term of office (Article 83.2 of the Constitution). That said, such permission is not required in the case of an offence punishable with imprisonment of five years or more, provided the MP is taken in the act of committing the offence. The authorities submit in this respect that crimes, such as illicit enrichment of public officials or corruption offences, may lead to sanctions of imprisonment for up to seven years. However, even in case an MP is caught "red handed", the Supreme Court needs to be notified by the competent law enforcement authority in order for the Court to decide whether to grant or refuse permission for the continuation of the prosecution or detention so long as the MP continues in his/her capacity as a member (Article 83.2 of the Constitution).

79. In case the Supreme Court refuses to grant permission for the prosecution of an MP, the period of prescription will not start running during the MP's time as a member of parliament (Article 83.3 of the Constitution). On the other hand, in case the criminal immunity is lifted by the Supreme Court, MPs may be subject to any criminal offence, but if the MP is convicted and sentenced to imprisonment it would still be required that the Supreme Court gives permission for the enforcement of the sentence and if such a permission is refused by the Court, the enforcement of the sentence is to be postponed until the MP's mandate as an MP ceases (Article 83.4 of the Constitution).

80. The GET was informed on-site that there had been four requests to lift MPs' immunity since 1962 and that, in all these cases, the requests had been granted by the Supreme Court. One of these cases concerns an MP whose immunity had been lifted in order to initiate criminal investigations and subsequent prosecution for alleged corruption offences; the case is still pending before an Assize Court. The GET also heard that in the past, in situations of minor offences, the Attorney General had not always filed such requests. More recently, however, this policy appears to have changed and the GET was informed (after the on-site visit) of a new request to lift the immunity of an MP for having committed a series of traffic offences. The request had been granted by the Supreme Court in a decision on 10 February 2016 (on Application 1/2016)

81. Moreover, the GET learned after the on-site visit, that a draft amendment to the Constitution aiming at reducing MPs' immunity to only cover their action and statements in Parliament had been issued by the Ministry of Justice, been vetted and approved by the Attorney General and submitted to Parliament in early March 2016. The draft text reads: "*Representatives shall not be liable to civil or criminal proceedings in respect of any statement made or vote given by them while exercising their duties as Representatives*".

82. The GET wishes to stress that in so far as the immunity enjoyed by members of Parliament goes beyond the protection of free speech, opinions and voting in Parliament, it may provide important obstacles to an efficient enforcement of criminal provisions, including in respect of corruption offences[5]. Currently in Cyprus, MPs enjoy far-reaching immunities and corruption offences may only be initiated if the MP is caught in the act, and even then, there is a need for permission in order to continue a prosecution. In the case of other offences, where the sanctions are less severe, there is always a requirement to lift immunity before proceedings can start. It appears unclear to the GET why such far-reaching protection is necessary. The GET therefore is pleased that the issue of far-reaching immunity protection of MPs in Cyprus is subject to debate and that

[5] Statute of limitation only counts from the moment the mandate of the MP expires.

the Government, supported by the Attorney General, has drafted amendments to the current constitutional provisions, aiming at reducing the immunity protection to only cover their action and statements in the course of his/her duties as a member of parliament. Such an amendment would provide a clear preventive measure against illicit use of immunity to hide from corruption and other criminal offences. This move is therefore to be supported and GRECO strongly encourages the authorities of Cyprus to pursue the on-going reforms concerning limitations to the current immunity protection enjoyed by members of parliament.

83. As stated above, the current immunity protection enjoyed by MPs in Cyprus, may in various ways hamper criminal investigations (e.g. their pace and the need to rapidly use investigative means etc.). That said, the GET sees much merit in the fact that decisions to lift MPs' immunity are carried out by the Supreme Court and not by Parliament itself. This aims at securing an independent procedure governed by the rule of law. Furthermore, the lifting of immunity of an MP is subject to the prerogative powers of the Attorney General, who, after examining the evidence of a case, decides whether to institute such proceedings. The GET also noted that there is binding case law as to the criteria which are to be taken into account by the Supreme Court in such cases, namely 1) the nature of the offence, 2) elements of dishonesty or moral turpitude, 3) the seriousness of the offence, 4) circumstances under which the offence was committed, 5) any relation to the MP's duties and any political motivation, 6) whether on its merits the application seems *prima facie* to be based on the law and facts, in the sense that it is not peremptory, and 7) whether the lifting would serve, as a general condition, the public interest which requires speedy handling of criminal cases.

Conflicts of interest (incompatibility)

84. The Law on Incompatibility in Exercising the Duties of Certain Officials of the Republic and Specific Professions and Other Relevant Activities (Law 7(I)/2008), which obliges MPs (and other high officials, as specified in an annex to the Law), to declare situations that may lead to incompatibilities, provides for a monitoring and enforcement mechanism through the *Committee for the Investigation of Incompatibilities*. According to Section 4 of the Law, the Committee comprises a retired judge as the chair, a representative of the General Accountant of the Republic, the Secretary General of the House of Representatives and one representative of the Attorney General's Office, all appointed by the Government. The Committee is in session when three members are present. The decisions of the Committee are taken by simple majority, with the chair having a decisive vote. The Committee is assisted by a secretary and three more staff.

85. The Committee for the Investigation of Incompatibilities is mandated to investigate complaints against officials listed in the annex to the law (including MPs) at its own initiative or following complaints from the outside. The Committee has some 1 000 persons to monitor who – before accepting any office – are to submit a declaration on possible incompatibilities to this Committee. Failure to do so or the discovery of any incompatibility in respect of an MP, will be made public by the Committee. Moreover, the 2008 Law stipulates that untrue declarations are subject to criminal liability.

86. Following parliamentary elections, all MPs are informed by the Committee in writing about their obligations in respect of the Law 7(I)/2008. The Committee also sends a questionnaire on possible incompatibilities for them to answer.

87. The Committee carries out its investigations *ex officio* or following a complaint from any of the top officials listed in the Annex to the Law or on the basis of a written disclosure submitted by the MP him/herself. The Committee may also act on complaints submitted by any citizen.

88. If the Committee, following an investigation, concludes that a situation of incompatibility is at hand (whether it is established or not that the official in question or anyone of them caused such an effect as to obtain direct or indirect financial profit for the official, a company, partnership, joint venture or business) the Committee will have to draft a justified finding, which it subsequently lays before Parliament for decision. However, this may not result in the dismissal of the MP, which can only be done in situations described in Article 71 of the Constitution (death, resignation, conviction for an offence of dishonesty, turpitude etc., if the MP will hold another office, such as minister, mayor etc.).

89. Furthermore, it follows from Law 7(I)/2008 (section 6(1)) that irrespective of any other legal consequences, all the acts, contracts, privileges, grants or other rights perpetrated by taking advantage of a discovered incompatibility, in violation of the provisions of this law relating to incompatibility, are void in relation to the MP having been found guilty of breaching the law. The same Law (section 7) provides that false or untrue declarations to the Committee are subject to criminal liability which may render a monetary penalty and/or imprisonment. A decision issued by the Committee constitutes an administrative act and is subject to recourse before the Supreme Court.

90. The GET was informed that the Committee had found incompatibilities in total in some 50 cases since 2008, out of which five or six involved members of parliament.

91. The GET did not come across any misgivings of a principal character as to the enforcement mechanism of Law 7(I)/2008. On the contrary, the GET saw much merit in the work of the Committee established by this law, in particular that it is independent from Parliament, that it has adopted a rather proactive approach and communication with the officials under its scrutiny etc. The GET is of the opinion that this Committee provides the basis for adequate monitoring of conflicts of interest. That said, it cannot judge its efficiency or possible need for additional resources. Moreover, should the basic legislation concerning conflicts of interest/incompatibilities (i.e. 2008 Law) be radically changed or amended in respect of its methodology, such a move may also require a different monitoring approach. In this connection, the GET also wishes to refer to its reasoning in respect of the monitoring of asset declarations, below.

Asset-declarations

92. The asset declarations by MPs are to be submitted to the Specialist Parliamentary Committee, according to the Law on the Declaration of Assets and Audits of Property of the President, the Ministers and the Members of Parliament (Law 49(I) of 2004) within three months of their coming into office and then every three years thereafter, as well as within three months from the end of their term in office.

93. Section 6(1) of Law 49(I) of 2004 specifically provides that this parliamentary committee is to check the compliance with the obligation to submit a declaration in accordance with the provisions of this Law, and Section 7 of the Law provides guidance as to when such a procedure can commence, for example, following a complaint indicating that details are missing in the declaration, or when it is obvious that a declaration is incorrect. Anyone may submit complaints to this Committee, by sworn written statement. That said, the GET did not receive much information on the practical work of the Committee other than that there had never been any cases concerning misgivings in respect of asset declarations and, consequently, it had not executed any sanctions against MPs in this respect.

94. As noted in respect of the supervision of conflicts of interest ("incompatibilities"), Law 7(I)/2008 provides for a mechanism which is independent of Parliament and which appears rather pro-active in its approach. The GET cannot see why a similar mechanism cannot be established for the monitoring of MPs' asset declarations. It would appear more

convincing, not least to the public, if the monitoring and complaints in respect of MPs' declarations were not handled by other MPs but by a mechanism independent of Parliament and MPs. It is not for the GET to suggest the details of such monitoring. However, monitoring the declarations of assets requires technical expertise which does not seem to be provided currently. In any event, the GET is of the opinion that the existing supervisory system for declaration of assets needs to be assessed in detail by the authorities with a view to moving this mechanism towards more independence and effectiveness. Some legislative work in this context appears to be underway.

95. In view of the above, **GRECO recommends that the current mechanism for monitoring declarations of assets submitted by members of parliament be subject to an in-depth evaluation with a view to establishing an independent and effective mechanism for such monitoring.**

Advice, training and awareness

96. It is the practice in the House of Representatives that upon coming into office the members of parliament are provided with copies of all regulations pertaining to their new status, including the Constitution of Cyprus, relevant legislation and the Rules of Procedure of the House of Representatives. All these instruments are also publicly available through the archives of the House, its library, the Official Gazette of the Republic as well as online. Apart from the provision of these pertinent documents to newly elected MPs, the GET was not made aware of any particular measures taken to assist members of parliament in respect of their awareness of risks of corruption and other similar phenomena that occur in their daily functions and on how to prevent such risks.

97. The GET wishes to stress that a number of reports adopted by GRECO within its Fourth Evaluation Round provide useful information about practices and measures available in several member States. In the light of what has already been discussed and recommended in terms of needs to enhance the legal and ethical framework in Cyprus, the GET sees a need also to complement such regulatory measures with a more pro-active approach to make existing and yet to be established standards work in practice. This need is underlined by the fact that there are strong indications that members of parliament are perceived to be particularly vulnerable to risks of corruption. The GET wishes to highlight three particular areas where further action appears to be important.

98. Firstly, the awareness raising in respect of risks of corruption among members of parliament, as well as about the constitutional, legislative and other regulations in place and yet to be established, would be improved if such information were gathered in the format of handbooks, containing selected regulations as well as explanations and examples. Secondly, it would appear that no particular attention has been given to providing dedicated training of members of parliament. The GET would see much merit in the establishment of induction as well as in-service training in respect of ethics and conduct requirements; how to prevent conflicts of interests, details of asset declarations etc. Thirdly, the GET sees a need to establish some form of advisory mechanism, in order to assist MPs (in a confidential manner) whenever they are facing difficult ethical dilemmas. Currently, there appear to be no mechanisms to handle such situations, although the authorities claim that MPs may raise any question on a case by case basis. The GET heard in this respect from some interlocutors on-site that there was a need for a legal service of the House of Representatives itself, in contrast to the current system where such a function was provided by the Attorney General's Office. Moreover, it does not appear that the Specialised Parliamentary Committee (dealing with asset declarations) has such a function. In view of the above, **GRECO recommends that the parliamentary authorities develop an integrity policy to prevent conflicts of interest and risks of similar deficiencies in respect of members of parliament through i) awareness raising on an institutional level, ii) in the form of handbooks and regular training and iii) on an individual basis, in the form of a dedicated service providing confidential counselling.**

IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES

Overview of the judicial system

99. The Constitution of Cyprus (Article 35) provides that the legislative, executive and judicial authorities are bound to secure, within the limits of their respective competence, the efficient application of the provisions of the Constitution.

100. Although judicial independence is not expressly stated in a particular article, other than what is referred to above in Article 35 of the Constitution, judicial independence is secured by the Constitution through institutional and functional segregation of powers, which is a central feature of this instrument. The doctrine of the separation of powers precludes any intervention by the legislature or the executive in the administration of justice and the exercise of judicial control. This is established throughout the constitutional text, since it is divided into separate parts, each of which provides for the competences and powers of the legislative, executive and judicial authority. Except where the Constitution makes express provision to the contrary, power is exercised by the branch (legislative, executive, judicial) to which it belongs as a normal consequence of their respective functions. However, in the case of disagreement or doubt, the judiciary (ultimately the Supreme Court) is to interpret the Constitution and legislation.

101. The independence of judges in Cyprus, as explained by representatives of the judiciary, is a cardinal feature of the legal and judicial system, including collective as well as individual independence of judges. Nobody may interfere with a judge's judicial duties. Such interference would constitute a criminal offence. Moreover, senior judges may not interfere with a judgment of a junior judge, except upon appeal.

102. Furthermore, the independence of the judiciary is also manifested by the security of tenure afforded to judges, as provided for in the Constitution; for example, Supreme Court judges shall be permanent members of the judicial service and shall hold office until they attain retirement age (Article 133.7 of the Constitution). There is the same security of tenure for all judges in Cyprus; they are all members of the judicial service and they hold office until retirement age (Article 157.3 of the Constitution).

103. The basic regulations in respect of the judiciary are to be found in the Constitution (Part 10), the Law to Provide for the Constitution, Jurisdiction and Powers of the Courts of the Republic and for other purposes relating to the administration of justice (No. 14 of 1960) (hereinafter LCJP) and the Administration of Justice (miscellaneous provisions) Law (No. 33 of 1964) (hereinafter AJL).

104. Justice in Cyprus is administered by a two layer court system: the Supreme Court and the inferior courts, all provided for by law. The Supreme Court was established in 1964, when it replaced the Supreme Constitutional Court and the High Court as a new single court, representing the highest judicial authority in the country. Although established by the AJL, the Supreme Court exercises its jurisdiction and powers in accordance with the Constitution which literally regulates the jurisdiction of the previous two courts[6].

[6] By virtue of the Administration of Justice (Miscellaneous Provisions) Laws of 1964 and 2015 (L.33/1964), the powers/competence of the High Court and the Supreme Constitutional Court have been transferred to the Supreme Court. According to section 3 of these Laws, "there shall be established in the Republic the Supreme Court, which, subject to the provisions of this Law, shall continue to exercise the jurisdiction of the Supreme Constitutional Court and the High Court". In section 15 of the aforementioned Law it is explicitly provided that any reference/mentioning to the High Court or the Supreme Constitutional Court, or to any judge of these courts, which is made in any legislation in force, shall be replaced by mentioning/reference to the Supreme Court or, depending on the case, to any judge of the Supreme Court. Due to the intercommunal strife of December 1963, the High Court and the Supreme Constitutional Court could not operate, since their composition, according to the Constitution, required the participation of Turkish-Cypriots judges. Thus, in order to enable the justice system in Cyprus to operate efficiently, there was a vital need for a new court to be

105. The Supreme Court of Cyprus is the Supreme Constitutional Court of the country. It decides pre-emptively questions of constitutionality of proposed legislation, when asked to do so by the President of the Republic. It also adjudicates upon questions of conflict of power or competence that arise between organs or authorities in the Republic and it decides on the constitutionality of existing laws, i.e. whether they are compatible with the Constitution.

106. The Supreme Court has also until recently acted as the first instance Administrative Court in Cyprus, consisting of panels of single judges and as the appeal administrative court, consisting of panels of five judges. However, with the adoption on 9 July 2015 of the *Law on the Establishment and Function of Administrative Court 2015* (L.131(I)/2015) a new first instance administrative court has been established, see below. That said, the Supreme Court remains the appeal court for administrative matters. The Supreme Court also acts as the Electoral Court, hearing election petitions.

107. Furthermore, the Supreme Court is the appeal court in civil and criminal matters. Panels of three judges decide finally on civil and criminal appeals. They may uphold, vary, set aside or order the retrial of a case. They may base their conclusions on the facts found by the trial court and in certain exceptional cases they may receive fresh evidence. In case of conflicts between earlier case-law or when issues involved are of great importance, the Grand Chamber of the Supreme Court will judge the case.

108. The Supreme Court also has jurisdiction over "admiralty cases" both at first and final instance. Furthermore, it has exclusive jurisdiction to issue prerogative orders – Habeas Corpus, Certiorari, Mandamus, Prohibition and Quo Warranto, which are traditional tools of the common law system of judicial review.

109. The most important first instance courts are the District Courts, one for each of the six districts of Cyprus. They deal with civil and criminal matters. More particularly, the district courts have jurisdiction to hear at first instance civil cases, where the cause of action has arisen wholly or in part within the borders of the district for which the court is established, or where the defendant resides or carries on business within that district. The district courts also have jurisdiction to try, at first instance, summarily, all offences punishable with imprisonment of a term not exceeding five years or with a fine not exceeding £50 000 or both.

110. First instance criminal jurisdiction is also provided to the Assize Courts, composed of three judges. They have jurisdiction to try all criminal offences punishable by the Criminal Code or any other law with a penalty of a minimum of three years of imprisonment. These courts have the power to impose the maximum sentence provided by the relevant law. There are four Assize Courts in Cyprus.

111. The establishment, composition and jurisdiction of the district and assize courts are provided in the LCJP, sections 3-25.

112. The first instance Administrative Court was established in 2015 (*Law on the Establishment and Function of Administrative Court 2015* (L.131(I)/2015). It is to adjudicate upon recourses made on complaints concerning decisions, acts or omissions of any organ, authority or person, exercising executive or administrative authority or contrary to any of the provisions of the Constitution or of any law, or made in excess or in abuse of the powers vested in such an organ, authority or person. This Court consists of a president and up to six judges.

---

established, which would continue to exercise the powers of the High Court and the Supreme Constitutional Court. Consequently, and based on the law of necessity, the Supreme Court was established, which has all competences and powers of the previous two courts.

113. Other first instance courts and tribunals are courts of specialised jurisdiction, the establishment, composition and functions of which are regulated in separate laws. The two Rent Control Tribunals are to try disputes arising from applications in respect of the rent control legislation. These tribunals are composed of a president (who is a judicial officer) and two lay members representing landlords and tenants respectively. The Industrial Disputes Tribunal which deals with applications by employees for unjustified dismissals and redundancies is composed of a president (who is a judicial officer) and two lay members representing employers and employees respectively. The Military Tribunal has jurisdiction to try offences committed by members of the Armed Forces under the Criminal Code and the Military Criminal Code. It is composed of a president (who is a judicial officer) and two military officers who have no power of decision. Finally, there are three Family Courts which try cases relating to matrimonial petitions for the dissolution of marriage as well as all relevant property disputes between spouses. They also have exclusive first instance jurisdiction to hear cases of custody, maintenance, access and adoption of children. These courts are composed of a president and two other judges.

114. The total number of judges in Cyprus is 113. The ratio between men and women is close to 50/50.

The Supreme Council of Judicature

115. The Supreme Council of Judicature is the self-governing administrative body of the judiciary in Cyprus. This Council is responsible for issues such as appointments, promotions, transfers, disciplinary matters and termination of service in respect of judges. That said, appointment of Supreme Court judges is not part of its functions. The Council has the power to issue regulations or practice directions and to regulate its procedure (Section 10(4) AJL).

116. The Supreme Council of Judicature is made up of the 13 justices of the Supreme Court and the President of the Supreme Court who is also the President of the Supreme Council (Articles 133(8) and 153(8) of the Constitution and Section 10 AJL). This particular composition, unique in itself, reflects - on the one hand - strong independence from the executive and legislative powers, which is to be welcomed. On the other hand, the composition of the Council being identical to that of the Supreme Court could, in the view of the GET, possibly lead to situations of conflicting interests within the judiciary and confusion as to whether the justices take decisions on behalf of the Supreme Council or the Supreme Court.

117. The GET notes that the Supreme Council is not involved in the appointment procedures of justices to the Supreme Court; rather it is for the Supreme Court to suggest candidates for appointment by the President of the Republic. However, this distinction appears less important as the same justices appear in both the Court and the Council. Yet, another situation where the "wearing of double hats" becomes evident is in situations of disciplinary proceedings against Supreme Court judges which are to be dealt with by the Council and not by the Supreme Court (although the composition of members is identical in both).

118. In this connection, the GET also wishes to draw attention to the standards of the Consultative Council of European Judges (CCJE) of the Council of Europe[7] which, *inter alia*, takes the view that judicial councils - when consisting only of judges - ought to be elected by their peers following methods guaranteeing wide representation of the judiciary at all levels, in order to avoid the perception of self-interest, self-protection and cronyism.

[7] Opinion no. 10(2007) of the CCJE, e.g. paragraphs 16, 17 and 27.

119. In view of the foregoing, the GET believes that the current composition of the Supreme Council of Judicature, while it represents a commendable degree of independence from the executive and legislative powers, would benefit from a broader representation of the judiciary should it also comprise some judges from lower courts. At the same time, the GET takes into account that the Council is established by the Constitution and that discussions about its composition would require careful consideration and time. Therefore, **GRECO recommends that the composition of the Supreme Council of Judicature be subject to a reflection process considering its representation within the judiciary as a means of preventing potential or perceived situations of conflicts of interest within the Council.**

Recruitment, career and conditions of service

120. All holders of judicial office in Cyprus are full-time professional judges, appointed on a permanent basis to serve until the age of retirement. All judges, except the justices of the Supreme Court, are categorised as lower court judges in this two-tier judicial system. The judges of the district courts are divided into three ranks: district court judges, senior district court judges and presidents of district courts. All other lower courts consist of lower court judges and each court has a president.

121. By virtue of Article 157.2 of the Constitution and Section 10 AJL, the appointment, promotion, transfer, termination of appointment, dismissal and disciplinary matters of lower court judges (district courts etc.) are exclusively within the competence of the Supreme Council of Judicature, consisting of the Supreme Court judges.

122. In order to meet the basic requirements for becoming a district court judge, the applicant needs to have at least six years of practice as a qualified lawyer and be of high moral standard. For the purposes of this subsection, "practice" shall include service in a judicial office" (Section 6 LCJP). The basic criteria to become a president or a senior district court judge is to have at least ten years of practice as a qualified lawyer and be of high moral standard. Representatives of the Supreme Council of the Judicature explained to the GET that "high moral standard" means impeccable behaviour. This is tested while the candidates are practicing advocates before the courts. Practice before courts during a number of years is a basic requirement for recruitment of judges in Cyprus.

123. Vacant posts of first instance judges are announced publicly on the courts' notice boards and the Bar Council (including the local bars) are informed. When judicial positions are declared vacant, candidates are invited to submit their interest in the positions. Candidates will be checked in respect of their qualifications as practicing lawyers (and members of the Bar). They are to be evaluated by the president and members of the district court before which they have practiced as advocates; evaluation reports on each candidate from the district courts (or other similar courts or entities) are to be submitted to the Supreme Council of the Judicature. The selection process also involves oral interviews with the candidates and the best candidates may be invited for a second interview. After the second interview of the selected candidates, the Council decides who will be appointed, having in mind their character, qualifications, performance at the interviews, as well as the reports from the district courts or other first instance courts. The GET understood that such a procedure was applied in the recent selection process of judges to the newly established Administrative Court of first instance.

124. According to the authorities, the appointments by the Supreme Council of Judicature of senior judges and presidents of first instance courts, including the district courts, follow the same principles based on grounds of merit and seniority. In respect of promotions of judges to higher ranks, the GET learned that in practice, the seniority has a particular weight and is usually an important criterion for promotion. Merit is the predominant factor which the Supreme Court takes into consideration but seniority plays a role where candidates are equal in merit. Quality, as well as quantity of judgments

produced, but also the personal integrity, character and behaviour of the applicants are taken into consideration.

125. The Supreme Council of Judicature is also responsible for transfers of first instance judges. Within the same court, such duties are assigned to the president of the court, subject to the approval of the Supreme Court. The GET was informed that judges may be transferred without their consent, if this is in the interest of the judicial service, at the discretion of the Council.

126. The President and the other judges of the Supreme Court are, according to Articles 133 and 153 of the Constitution, appointed by the President of the Republic. These posts are not announced publicly and the Supreme Council of the Judicature is not involved in the procedure. Instead, the President of the Republic seeks, invariably, the opinion of the Supreme Court and in practice acts upon its recommendations. Only on one occasion did the President of the Republic not follow the advice of the Supreme Court.

127. To be qualified for appointment to the Supreme Court, a candidate must have at least 12 years' practice as a member of the Bar or as member of the judiciary or a combination of the two and be of a high moral standing (section 5 AJL, as amended). The GET understood that in respect of appointments of judges to the Supreme Court, this will most often concern a senior first instance court judge, district court president etc. So it would appear that seniority as a practicing judge is an important part of the qualifications necessary for becoming a judge of the most important court of the country.

128. The GET notes that the statutory basis for entering into the profession as a judge in Cyprus to a large extent follows the same principles that prevail in other countries of common law systems, namely to recruit judges among practicing lawyers of the Bar (rather than to recruit career judges and train them). When selecting candidates to enter into the judiciary, the Supreme Council of Judicature will base its decision on the performance of practicing lawyers before various courts, most often following opinions from court presidents and other senior judges. That said, the GET also learned that having practiced before such courts is not an exclusive avenue for entering into the judiciary. Other forms of legal practice and experience may also count. Furthermore, the Council carries out interviews with the candidates, and in the recent appointment procedures to the Administrative Court, there was even a second round of interviews with the most qualified candidates before the final selection was made. The GET did not come across any misgivings in respect of this model for recruitment based on practical experience as a lawyer already gained by the candidates before entering the judiciary. Moreover, the Supreme Council of Judicature also carries out its own tests in the form of one or more interviews. Considering its particular mandate in this respect, the GET was interested in having a clear understanding of the second statutory requirement, i.e. to possess a "high moral standard". It was told that this notion would mean "impeccable behaviour", but did not come across any further criteria in this respect. . The authorities explained that the notion "high moral standard" and what is expected by a judge or a high official was interpreted in the application no. 1/15 Attorney General v. Deputy Attorney General (24 September 2015) where in a broader way the term misconduct/misbehaviour was explained. In that case, the Supreme Court also made reference to the "UN Bangalore Principles of Judicial Conduct". The GET took note of this information, but remained of the opinion that more guidance would be helpful as to the notion "high moral standard" in the form of concrete criteria required and necessary background and integrity checks to be made, in order to render it an efficient tool to prevent recruitment of unsuitable candidates. Consequently, **GRECO recommends that the integrity requirement for appointment as a judge be guided by precise and objective criteria which are to be checked before appointment/promotion, and that such criteria be made available to the public.**

129. The tenure of judges of the Supreme Court is guaranteed by the Constitution and these judges retire at the age of 68 (Article 133.7 of the Constitution). The tenure of lower court judges is also provided for by the Constitution (Article 157.3); however, they are to retire at the age of 63 (Section 8(2) LJCP). There are no possibilities to prolong these terms of office. It was explained to the GET that a reason for a higher retirement age is that Supreme Court judges are normally appointed at an older age than the low court judges (between 50 and 60 years of age).

130. The Supreme Council of Judicature is the competent authority for the dismissal of first instance court judges (Article 157.2 of the Constitution and section 10 AJL). Article 157.3 of the Constitution provides that the same rules shall apply to all judicial officeholders. Regarding the Supreme Court Judges, sub-paragraph (4) of Article 133.7 of the Constitution provides that they may be dismissed on the ground of misconduct. The same provision can also be found in sub-paragraph (4) of Article 153.7 of the Constitution. It follows from section 9 AJL that the Supreme Court has the competences and powers in respect of issues relating to the retirement, dismissal or otherwise regarding judges of the Supreme Court due to such mental or physical incapacity as would render the judge incapable of discharging the duties of his/her office either permanently or for such period of time as would render it impracticable for the judge to continue in office or due to misconduct. This is also dealt with under "Supervision and Enforcement", below.

131. The gross annual salary of a Supreme Court judge is €136 756. The salary of a first instance district judge is €76 939. The salaries of judges also increase in accordance with their seniority and specific chief positions; for example, a senior district court judge and a president of a district court earn more than ordinary district court judges. All salaries are taxable and open to the public. The GET learned that judges in Cyprus are relatively well paid in comparison with other public officials and employees.

132. As far as additional benefits are concerned, the Supreme Court Judges are granted an allowance of €18 000 annually. This allowance is also taxable and calculated as salary for pension benefits. Moreover, an allowance of €2 050 per year is also given to the Supreme Court Judges for commuted telephone allowance. Information about their use of this benefit is not available to the public. The judges are not entitled to use these benefits after their term of office.

133. The abovementioned salaries and benefits constitute part of the Annual State Budget. That said, these benefits cannot be reduced in respect of judges in office (which is yet another constitutional safeguard for judges' independence). Every year, the Law on the Annual State Budget is published in the Official Gazette of the Republic.

Case management and procedure

134. The assignments of cases to various courts follow their particular jurisdiction in terms of territory and specific mandates, as established in Sections 20-24 LCJP and in special legislation.

135. A criminal offence may be tried by a president of the district court, a senior district court judge or a district court judge sitting alone or by an assize court. A single judge has jurisdiction to try summarily all offences punishable with imprisonment for a term not exceeding five years or with a fine not exceeding £50 000 or both. In addition, a judge may order a person who has been found guilty of a criminal offence to pay compensation not exceeding €6 000 to the person injured by the offence section (24(1) of LCJP). It must be noted, however, that a judge with the consent of the Attorney-General can assume jurisdiction and try summarily any offence, if satisfied that it is expedient to do so, taking into consideration all the circumstances of the case, including consideration of the adequacy of the punishment or compensation that the president of

the court, senior judge or district judge is empowered to impose. In any case, the punishment to be imposed cannot exceed the punishment and compensation which the president of the court, senior judge or district judge is empowered to impose by virtue of paragraph (1) of section 24 (section 24(2) LCJP). The Attorney General cannot decide that a particular case be dealt with by a particular court. However, the Attorney General, in his capacity as prosecutor, has the power at any time during the proceedings to remove a case from an Assize Court and send it to the District Court to be tried summarily, without giving any reasons for such a decision. This matter is further dealt with in relation to prosecutors, below (paragraph 194).

136. New cases coming in to any given court are randomly distributed among the judges, having regard to the competences referred to above as well as in accordance with the turn of each individual judge.

137. A judge cannot be removed from a case, unless s/he decides to exclude him/herself on grounds of connection with litigants or other valid grounds. If there is an application to recuse a judge from a case, and this is rejected by the judge, this may be reviewed on appeal.

138. As far as safeguards ensuring that judges deal with cases without undue delay are concerned, the authorities refer to Article 30.2 of the Constitution, which provides that "In the determination of his/her civil rights and obligations or of any criminal charge against him/her, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgments are to be reasoned and pronounced in a public session; however, the public may be excluded from all or parts of a trial upon a decision by the court for reasons of state security, public order, safety or morals, protection of young persons, private life or in the interest of justice etc."

139. Moreover, Supreme Court Rule of 1986, a judgment must be delivered as soon as possible after the termination of the proceedings and, in any case, within six months from the date when it was reserved [paragraph 3(a)]. According to sub-paragraph (b) of paragraph 3, if the court omits to comply with the provisions of sub-paragraph (a), any party who has an interest in the case, may file an application to the Supreme Court and request any of the remedies provided in paragraph 5, which are (a) a court order for the retrial of the case by another competent court; (b) a court order for the delivery of the judgment within a set period of time and, in case of omission to comply, the retrial of the case by another competent court. Moreover, according to paragraph 4 of the aforementioned Rule, in the case where a judgment has been reserved for more than 9 months, the case is brought before the Supreme Court, which may order the judgment to be delivered within a set period.

140. The authorities also submit that reports are regularly sent from the district courts to the Supreme Court concerning pending cases and that the Supreme Court checks, every three months, the pending judgments that are overdue. An interlocutory judgment should as a rule be delivered within two months and a final judgment within six months.

141. A main concern in respect of the administration of justice in Cyprus and one of the very few criticisms expressed on-site by representatives of civil society relating to the administration of justice in Cyprus was about excessively lengthy proceedings before the courts, in particular concerning civil law suits. It would appear that this problem exists in respect of first instance courts as well as at the level of the Supreme Court. The GET is aware that Cyprus has been subject to a considerable number of complaints in this respect before the European Court of Human Rights over the years, and as a result, various measures have been taken in Cyprus in order to deal with this structural problem, for example, to increase the number of judges and to establish the Administrative Court in 2015. The GET was also informed that the possibility of

establishing special commercial courts for low value disputes was being considered and civil procedure rules have been amended to allow for speedier proceedings. The GET encourages the authorities of Cyprus to continue these efforts in dealing with this structural problem, which may have implications also for the integrity of individual judges as it may cause risks of undue influence over the judiciary in Cyprus, which is central to the current report. That said, aware of the broad range of measures already taken and underway, the ongoing considerations to further enhance the efficiency of the judiciary, including in dialogue with the Council of Europe, the GET sees no necessity to single out a specific recommendation in the current report in respect of this multifaceted problem. The GET wishes to stress the importance of efforts in this area as a means also of preventing risks of corrupt activities.

Ethical principles, rules of conduct and conflicts of interest

142. The authorities refer to some fundamental principles contained in the Constitution (Articles 12 and 30), e.g. everyone's right to the presumption of innocence, to be informed promptly of the ground for charges against him/her, to have time to prepare his/her defence, to choose a defence lawyer, access to a court etc. In addition to these general human rights principles that apply to anyone in a society governed by the rule of law, the authorities have also referred to the UN "Bangalore Principles of Judicial Conduct" and to domestic case law concerning judicial conduct, which include principles which could be the basis for a code of judicial ethics in Cyprus.

143. Upon their appointment, judges take an oath to administer justice without fear or favour (Section 8 AJL).

144. Currently, there is no code of ethics or code of conduct for judges in Cyprus. That said, the GET was informed that the possibilities for establishing such an instrument were under consideration within the judiciary. The GET notes that the establishment of certain specific regulations, often relating to procedure, are constantly being developed by the Supreme Court through its Practice Directions, but these are not to be regarded as professional ethics. In the view of the GET, a code of ethics is a set of commonly accepted standards for ethical conduct, which, *inter alia*, need to provide for a definition of the concept of conflicts of interest, preferably coupled with references to various practical examples, it being understood that such an instrument can go further than statutory texts. Furthermore, a code of ethics needs to be developed with the active participation of judges of all ranks and levels in order to make it specific to the needs of this particular profession and it ought to be able to evolve over time as appropriate. A top-down approach by the Supreme Court or the Supreme Council of Judicature for the development of a code of ethics is therefore not advisable. Such a code of ethics is also an excellent tool for the training of judges in ethical dilemmas, whether in relation to induction or in-service training. The GET believes that even in a country like Cyprus, where judges generally enjoy a good reputation in terms of independence and integrity, such a code - and not least the process of developing a code - would prove to be beneficial to further consolidating the integrity of the judiciary. In view of the above, **GRECO recommends that a code of ethics/conduct be elaborated on the basis of broad involvement of various members of the judiciary, in order to manifest and develop standards that are commonly agreed aimed at the particular functions of judges, offering guidance in respect of areas such as conflicts of interest and other integrity related matters (e.g. gifts, side activities, recusal, third party contacts, handling of confidential information).** The GET wishes to stress that such exercises in other member States, including States where the judiciary is built on a similar legal tradition as it is in Cyprus, may serve as inspiring examples.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities, post-employment restrictions

145. There is no legislation concerning judges holding other posts or functions or engaging in accessory activities, holding financial interests etc. However, the GET was told by judges that they are not allowed to have any side activity for gain, according to the Supreme Court Practice Direction. Even service in charitable institutions requires permission of the Supreme Court. The GET was also informed that, more recently, teaching at the universities, whether paid or not, has been completely forbidden. To what extent judges may be actively involved in their holding of financial interests did not appear to be regulated. There are no specific rules regulating judges' employment or engagement in other activities after having exercised judicial functions. These matters are just examples of areas where difficult questions relating to conflicts of interest may arise, which need to be addressed in order to provide judges with a clearer understanding and guidance from an integrity perspective, preferably in a code of conduct, as referred to above (paragraph 145).

146. The GET is also of the opinion that a clear ban, or reporting obligations, in respect of certain side activities might be necessary as a preventive measure to avoid conflicts of interest in particular situations. Having said that, it shared the view expressed by some judges that a complete ban even on non-paid side activities, such as teaching at the university, would appear far-going in comparison with the situation in many other member States.

Recusal and routine withdrawal

147. The authorities submit that the Practice Direction of the Supreme Court of 2003 (published in the Official Gazette on 28th November 2003), taking into account the constitutional provisions on the protection of the principle of equal treatment, enshrined in Article 28.1 of the Constitution, and the principle of impersonality, which shall apply when the courts perform their functions, provides that a judge shall not hear a case, except in cases pending before the full bench, where the lawyer appearing in the case is a close family member or partner or employee of such a person (parents, spouses, children or their spouses, brothers and sisters or their children or their spouses and lawyers, who act on behalf of a judge, are considered to be "close family members"). Furthermore, the GET was informed that there is consistent court practice that in cases where a judge has a personal interest s/he will exempt him/herself from the case.

148. Applications for exclusion of judges from cases by parties are to be submitted to the judge directly involved and, if refused, may be appealed against.

Gifts

149. There are no written rules in place concerning gifts, but accepting gifts may constitute a criminal offence e.g. bribery or illicit enrichment. Judges met during the on-site visit very clearly expressed that no gifts were allowed for judges in Cyprus and that there is clearly no tradition of offering gifts to judges. The GET was pleased to note this position and is of the opinion that it should usefully be included in a future code of ethics/conduct as recommended in paragraph 145.

Third party contacts, confidential information

150. There are no specific statutes regulating judges' contacts with third parties outside the judicial procedure. That said, there is a well-established practice that a judge will not communicate with a third party concerning a case in which s/he is exercising a function.

This practice could, in the view of the GET, become an adequate part of a future code of ethics/conduct, as highlighted in paragraph 145.

151. In respect of disclosing confidential information, the authorities refer to Section 135 of the Criminal Code, entitled "violation of official secret and disclosure of state secret", which provides that any public officer (which includes judges) who publishes or communicates any information or fact which comes to his/her knowledge by virtue of his/her office and which it is his/her duty to keep secret or any document which comes to his/her possession by virtue of his/her office and which it is his/her duty to keep secret, except to some person to whom s/he is bound to publish or communicate, is guilty of a misdemeanour, which may lead to imprisonment of up two years or a fine. The GET wishes to stress that, despite the existence of a criminal offence for revealing secret information, this area also involves handling information which may, for example, be of a personal character without being secret. Policies for how to deal with such matters are typically of a character which may lead to ethical dilemmas and could well be part of a future code of ethics/conduct for judges, as recommended in paragraph 145.

Declaration of assets, income, liabilities and interests

152. The GET was informed by representatives of the judiciary that judges in Cyprus are considered as politically exposed persons. They are usually submitted to inquiries about their acquisitions, property or income, by income tax authorities and by banks. Such inquiries usually cover their spouses and children. Having said that, there are no specific requirements, duties or regulations in place for judges and their relatives to submit asset declarations on a regular basis.

153. The GET was informed that there is a draft law pending before the Legal Affairs Committee of the House of Representatives, amending the LCJP, giving the discretionary power to the Supreme Court to issue a procedural rule with which to regulate the submission of declarations of assets of judges. In this context, the GET wishes to reiterate its position (expressed in respect of asset declarations by MPs and prosecution staff) that in case judges would be obliged to declare assets etc., in addition to declaring offspring, such declarations should preferably also include information on the assets of spouses and dependent family members. Moreover, it would appear that an obligation to declare assets would no longer run counter to Article 15 of the Constitution (right to private and family life), following the amendment of this Article on 28 April 2016 (Law 69(I) 2016), see also paragraph 71.

Supervision and enforcement

154. It follows from articles 133.10 and 153.10 of the Constitution that no action can be brought against the President or any other judges of the Supreme Court for any act done or words spoken in their judicial capacity. These provisions provide Supreme Court judges with "functional immunity" for whatever they do or say in their judicial capacity. The Attorney General is to discretionally decide in each case whether a Supreme Court judge is suspected of a criminal offence within or outside his/her judicial capacity.

155. All other judges are subject to criminal liability like any citizen and there are no special proceedings in respect of first instance court judges. The authorities submit that to date there has been no case of criminal prosecution of a judge in Cyprus.

156. As far as non-criminal proceedings and enforcement mechanisms are concerned, the Supreme Council of Judicature is the competent authority. The Council is mandated to deal with disciplinary matters against first instance judges as well as in respect of Supreme Court Judges.

157. The disciplinary procedure is laid down in the Practice Direction of the Supreme Court of 2000 on the powers of the Supreme Council of Judicature. Paragraph 3 of the Practice Direction provides that when it comes to the knowledge of the Supreme Court that a judicial officer has shown improper conduct or is suspected of a disciplinary offence, it brings to the attention of that person all the evidence set before the Supreme Court so that s/he can state his/her position. After receiving the position of the suspected judge, the Supreme Court decides whether there are any grounds for an investigation. If the Supreme Court decides that an investigation should be carried out the Supreme Council of the Judicature appoints an investigating officer (a judge senior to the judge under investigation) who will carry out the investigation. All the evidence gathered is also provided to the judge under investigation. The investigating officer submits a report supported by evidence to the Supreme Court, which in turn decides whether the judicial officer is to be referred to a disciplinary trial before the Supreme Council of Judicature.

158. The judicial officer under investigation enjoys the rights set out in Article 12.5 of the Constitution, which are drawn from Article 6 of the European Convention of Human Rights, (to be informed promptly of the nature and grounds of the charge, adequate time to prepare, to defend him/herself in person or through a lawyer of his/her own choosing etc.). The final decision is to be taken by the Supreme Council of Judicature by a majority vote.

159. Disciplinary offences include non-performance of judicial duties, omission to perform such duties, inadequate performance or deviation from the performance of such duties and generally unacceptable behaviour.

160. The GET was informed by the judicial authorities that during the past 15 years, disciplinary measures were taken only against five first instance judges, four of whom resigned voluntarily and one was dismissed for misconduct and improper behaviour with regard to his duty as the President of the Industrial Disputes Tribunal ("Kamenos case") There have never been any disciplinary proceedings against a Supreme Court judge.

161. The procedure for suspected misconduct by justices of the Supreme Court or other high officials (e.g. the Attorney General), was recently defined by the Supreme Court, acting as the Council in accordance with the Constitution[8] in a case by the Attorney General against the Deputy Attorney General. The procedure for dealing with misconduct against justices of the Supreme Court (and other high officials), were issued by the Supreme Court in "*The Supreme Council of Judicature (control and procedure) Rules of 2015*". The procedure is of a judicial nature and the only sanction for Supreme Court judges found guilty of misconduct is dismissal. No such cases exist to date.

162. The GET is pleased that first instance judges are subject to criminal proceedings like any citizen in Cyprus, and that the immunity enjoyed by Supreme Court justices is limited to their function as judges. Moreover, Cyprus has in place procedural rules to deal with disciplinary investigations against judges at all levels. The GET notes again the important role of the Supreme Court as a kind of "gate-keeper" for such investigations, which, following a decision of that Court, will be handled by the Council of Judicature. The GET has already discussed the many roles given to the Supreme Court and the fact that its justices also carry out the functions of the Supreme Council of Judicature, which may sometimes entail conflicting interests within the judiciary. In respect of disciplinary proceedings against first instance court judges, the GET does not see such a conflict, although it would appear reasonable if judicial representatives even of lower courts had been members of the Council. However, when it comes to disciplinary proceedings against Supreme Court judges, there appears to be a serious conflict of interest, even considering that a suspected Supreme Court judge could not participate in the Supreme

[8] According to the authorities, the Council is different from the Supreme Council of Judicature, but it is composed of the same people, i.e. the President and members of the Supreme Court, unless one of them is the accused.

Council if s/he at the same time is being investigated. It would appear that situations where the Supreme Council investigates justices, who belong to the same Council/Court do not give the impression of a fully independent/impartial process. A broad recommendation concerning the composition of the Supreme Council of the Judicature and the various roles given to the Supreme Court has been issued in paragraph 120.

Advice, training and awareness

163. There is no training academy or the like for judges in Cyprus, but the establishment of such an institution has been discussed, according to representatives of the judiciary. At the same time they stressed that judges in Cyprus are often appointed on the basis of a rather long and successful experience as practising lawyers, providing them with far going legal experience even before they enter the judiciary.

164. Moreover, the GET was informed that newly appointed judges in principle are to undergo training for two weeks before they sit on the bench (which applied in respect of the judges appointed in 2015 for the new Administrative Court). Moreover, in the course of their legal practice, judges become increasingly familiar with the standards of propriety expected of them as situations appear, according to the authorities. In-service training seminars for judges are organised from time to time and they may include topics related to ethics and conduct expected from them, but there is no well-established training of judges specifically devoted to such issues, more than as a part of the overall training.

165. As far as advice to judges in terms of their ethical conduct is concerned, the authorities stress that judges are guided by the Practice Directions of the Supreme Court as well as the extensive case law of the same Court. In addition, judges may always turn to colleagues or to the president of a court to discuss such matters.

166. The GET notes that Cyprus traditionally belongs to the common law countries where newly recruited judges have a lengthy professional experience, most often as practising lawyers, before they enter the judiciary, as opposed to countries which recruit judges at an early stage of their career and offer profound initial training at the beginning of their service. Having said that, the GET also notes that the system in Cyprus is somewhat mixed between these two extremes, for example, not only long term serving advocates are allowed into the system, but also candidates from other judicial offices. Moreover, it would appear that once admitted to the judiciary, judges to a large extent tend to be promoted within the system, i.e. admitted to higher posts. In such a mixed system, it makes sense to provide training on a more continuous basis, both in terms of initial training and in respect of in-service training. The GET therefore welcomes the discussion in Cyprus about the establishment of a training institution for judges and encourages the authorities to pursue this matter. Having said that, the GET also realises that the number of judges is rather limited in Cyprus and the format and institutional settings of a training academy needs to be adjusted to this situation, as well as the overall needs, budgetary possibilities etc. However, in terms of the particular focus of the current report, the GET wishes to stress that more needs to be done in order to bring ethical training into the judiciary as a recurring phenomenon in the initial training as well as in respect of the in-service training. A clear curriculum for this needs to be adopted, preferably in close co-ordination with the establishment of a code of ethics as recommended in paragraph 115. Consequently, **GRECO recommends that dedicated training of judges in respect of judicial ethics, conflicts of interest and corruption prevention be introduced as a well-defined part of the induction training of newly recruited judges and provided at regular intervals in the form of dedicated in-service training of judges, based on existing provisions and practice as well as yet to be established ethical guidelines and European standards.**

V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS

Overview of the Prosecution Service

167. The Prosecution Service in Cyprus is part of the Office of the Attorney General of the Republic (the Law Office of the Republic). The Law Office is not part of the judicial or the executive branch, but is an independent institution, as provided for in the Constitution, Part VI, Articles 112-121. According to Article 112.2 of the Constitution, the Law Office of the Republic is headed by the Attorney-General and the Deputy Attorney-General and "*shall be an independent office and shall not be under any Ministry*".

168. By virtue of Article 112.1 of the Constitution, both the Attorney General and the Deputy Attorney General are appointed by the President of the Republic. They shall possess the same qualifications, and hold office under the same terms, as those required for Supreme Court judges. They serve until the age of 68 years and can only be removed from office in cases of mental or physical incapacity or conduct incompatible with the exercise of their duties (Article 112.4). The Law Office of the Republic has its own budget, approved by the House of Representatives.

169. According to Article 113.1 of the Constitution, the Attorney-General assisted by the Deputy Attorney-General, is the legal adviser of the Republic; the President and the Vice President of the Republic as well as of the Council of Ministers and the individual ministers.

170. Moreover, according to Article 113.2 of the Constitution, the Attorney-General also has prosecutorial powers exercisable - at his/her discretion - in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence against any person in the Republic. Such power may be exercised by him/her in person or by subordinate officers acting under him/her in accordance with his/her instructions.

171. The officers of the Law Office are civil servants and are called Law Officers. The Law Officers are divided into various sections: e.g. Civil Law section, Administrative Section, Criminal Law section, International Law section etc. Law officers who are under the Criminal Law Section prosecute cases in the Assize Courts, i.e. in respect of serious offences. There are currently 12 law officers in the Criminal Law Section. The public prosecutors (distinct from the law officers) also belong to the Law Office but they are hierarchically under the law officers, and like the law officers, they are civil servants. They normally appear as prosecutors before the district courts, i.e. in respect of less serious offences. Currently there are 33 prosecutors in the Law Office. Consequently, there are 45 prosecuting staff (law officers and prosecutors) in the Criminal Law Section of the Law Office (80% are women). In addition, the Financial Intelligence Unit (MOKAS), which is a law enforcement body, also operates under the auspices of the Attorney General of the Republic.

172. By virtue of Article 112.2 of the Constitution, as the Head of the Law Office, the Attorney General, may give directives to law officers and prosecutors in individual cases, including directives regarding the commencement of prosecutions or the dismissal of a case. In several cases, the Attorney General him/herself may exercise the powers provided in Article 113.2 of the Constitution with the assistance of the staff of the Law Office. The staff is liable to receive instructions/directives from the Attorney General in the exercise of their prosecutorial functions. It has to be mentioned that the power of the Attorney General to discontinue criminal prosecutions has been challenged before the Supreme Court and this Court has held that such a decision of the Attorney General is not subject to judicial review.

173. The hierarchy applicable to the members of the Law Office of the Republic is the following: the Attorney General, the Deputy Attorney General, Attorneys of the Republic,

Senior Counsels of the Republic and Counsels of the Republic. Anyone of these law officers may in principle act as prosecutors in a given case as decided by the Attorney General. As mentioned above, the prosecutors deal normally with criminal cases which fall within the competence of the district courts, while the Law Officers deal with prosecutions before the assize courts. It is exceptional that a prosecutor appears before an assize court or a law officer before a district court.

174. The GET notes that the Constitution of Cyprus provides the Attorney General as the Head of the Law Office of the Republic with a number of different tasks, including that of being the legal advisor of the President of the Republic, the Government and its individual ministers. It is the task of the Law Office, in its role as legal advisor to the Government, to legally vet draft legislation and explanatory notes before these are submitted to Parliament. The Attorney General is also the Chair of the Bar Association, where all practising lawyers are members.

175. The various departments of the Law Office give a clear indication of the multifaceted and broad tasks provided to this Office (civil law, criminal law, administrative law, EU law, international law, human rights and drafting and legal vetting departments). Moreover, the Constitution provides the Attorney General with far reaching discretionary powers as the highest authority of the country to instigate and discontinue prosecutions, which is furthermore well reflected in the hierarchical structure of the Law Office, in respect of prosecutions administrated by the Criminal Law Department, which in itself has a clear top down structure, with the Law Officers dealing with assize court cases as well as provided with supervisory powers to lead and instruct the prosecutors, who are entitled to deal with district court cases. It goes without saying that in such a system, the Attorney General has a powerful position, a situation that calls for checks and balances to prevent risks of undue influence over the prosecution system.

176. The GET learned on-site about discussions within the Attorney General's Office concerning possible reforms of the Law Office, towards more independence of this Institution (e.g. in terms of a separate budget, its own recruitment and promotion mechanisms etc.). Considering the very broad mandate given to the Attorney General and the Law Office of Cyprus, including multiple advisory functions to the executive authorities, dealing with matters relating to criminal, civil, public and international law etc., such broad reform goes beyond the focus of the current Report, which is limited to prosecutorial staff and functions. Having said that, the GET would see much benefit in reforms in respect of the part of the Law Office that is dealing with prosecutions. Bearing in mind the Twenty Guiding Principles for the Fight against Corruption[9] (Principle 3), the GET wishes to stress that authorities dealing with prosecution of criminal cases, including corruption offences, are to enjoy independence and autonomy appropriate to the carrying-out of such functions. Being an integrated part of the Law Office, the prosecution service of Cyprus may be seen to operate in an environment that is not fully free from potential or real risk of improper influence. At the very least, such an institutional setting requires a number of checks and balances to prevent risks of undue influences. Leaving aside general reforms of the Law Office, which go beyond the objective of the current report, the GET would favour reforms aiming at providing the officials dealing with prosecutions (including both law officers and prosecutors) with more autonomy and independence, coupled with the safeguards necessary, to pursue prosecutions in various court instances. To this end, **GRECO recommends that reform considerations concerning the Law Office of the Republic include means to strengthen the independence of the prosecutorial functions and the capacity of the individual law officers and prosecutors to conduct their duties in a more autonomous way, guided by the safeguards necessary under the rule of law.**

[9] Resolution (97)24, adopted by the Committee of Ministers of the Council of Europe in 1997

Recruitment, career and conditions of service

177. As mentioned above, both the Attorney General and the Deputy Attorney General are appointed by the President of the Republic. These high-ranking officials must possess the qualifications of and hold office under the same terms as Supreme Court judges (Article 112.1 and 112.4 of the Constitution). They serve until the age of 68 years and can only be removed from Office in cases of mental or physical incapacity or conduct incompatible with the exercise of their duties (Article 112.4) by decision of the Supreme Court.

178. All other prosecuting members of the Law Office, including the counsellors and prosecutors, have the status of public officials and as such, are subject to the provisions of the Public Service Law (Law 1/1990 (PSL)) as amended. Article 125 of the Constitution in conjunction with Section 5 PSL, provides that it is the duty of the Public Service Commission to appoint, confirm, emplace on the permanent establishment, promote, transfer, second, retire and exercise disciplinary control, including dismissal or compulsory retirement of public officers.

179. The members of the Public Service Commission are appointed for a six-year period by the President of the Republic and cannot be removed from office except on the same grounds as a Supreme Court judge (Section 4 PSL). The composition of the Public Service Commission (one Chairperson and four other members) is regulated in Section 4 PSL, according to which the members must be citizens of Cyprus and hold the qualifications necessary to be elected as an MP. The members are, according to the law to be recruited among ministers, MPs, public officers, members of the armed forces, employees of a local authority, a corporation, a public utility corporation established by law or a member of a trade union.

180. The basic qualifications to be fulfilled to become a public official are provided for in Section 31 PSL which requires that the official is a citizen of Cyprus, has attained the age of seventeen years, has completed the military service or has been lawfully exempted from it, possesses the qualifications required by the scheme of service of the particular post for which the appointment is to be made, has not been convicted for an offence of a serious nature which entails dishonesty or moral turpitude and has not been dismissed from a public service as a disciplinary offence.

181. Additional criteria in respect of applicants to become prosecutors are in essence to be enrolled as an advocate in Cyprus (member of the Bar), to have very good knowledge of the pertinent languages, integrity of character, organisational and managerial skills, responsibility, ability to take initiatives and possess a good judgment. Furthermore, candidates are required to have a minimum experience of two years of work in dealing with criminal cases relating to the Criminal Code and/or similar legislation.

182. It needs to be added that the conditions and qualifications for enrolment as an advocate in Cyprus are provided in the Advocates Law (Cap. 2), Section 4, which provides, *inter alia*, a minimum age of 21 years, to possess a good character, not have been subject to any conduct incurring disciplinary measures, to have a law degree and at least 12 months of practice in a law firm.

183. All vacant posts in the Public Service, including those of the Law Office (i.e. law officers and prosecutors) are to be announced publicly in the Official Gazette of the Republic Section 33 PSL), by the Public Service Commission on the basis of the particularities given by the Attorney General's Office (Section 33(1) PSL).

184. Applicants to become law officers or prosecutors (whether in respect of new appointments or in respect of promotions) have to undergo a written test or an oral test. On the basis of the results of the written and/or oral examination of the candidates,

whichever has been conducted, the qualifications of the candidates in relation to the duties of the post, the content of their personal files and of the annual appraisal reports of the candidates who are public officers, as well as the remaining particulars of the applications, the Advisory Board of the Public Service Commission prepares and forwards to the Commission a duly reasoned report for all candidates as well as a preliminary list containing in alphabetical order the names of the candidates it considers the most suitable, hereinafter referred to as the "preliminary list".

185. According to Section 33(10) PSL, as the next step before the final selection, the Commission is to invite for interview the candidates who are included on the final list. During the candidates' interviews the Commission may be assisted by an official or officials who are in a position to give assistance because of their specialised knowledge. In practice, this means that the Attorney General would be represented in person or by somebody from his/her Office to assist the Commission. That said, it is the Public Service Commission that takes the final decision on which candidate to recruit/promote. The decision of the Public Service Commission to recruit/promote or not to recruit/promote a certain candidate is subject to judicial review before a court of law.

186. In the view of the GET, the current procedures for recruiting and promoting public officials in Cyprus are built on very solid ground as guided by precise rules provided for in the Public Service Law. As this law is applicable to any public service function in Cyprus, the basic principles and provisions are complemented by specific rules in order to take into account the various needs of different types of services and the specific services are represented in the process, while the final say rests with the Public Service Commission. The GET believes that this system has the potential to provide for a fair recruitment procedure. Representatives of the Attorney General's Office criticised these procedures for being unnecessarily cumbersome and would rather see a system where the Attorney General is exclusively in charge of the recruitment of staff to this Office. Although the GET understands the efficiency reasons for such a move, it maintains its position that the current system has a number of advantages in terms of objectivity to the process as such. Moreover, the checking carried out, based on the general requirements for the public service, including integrity tests (criminal record, disciplinary records and interviews) as well as the specific requirements of legal officers (e.g. requirements to be a member of the Bar and legal experience as a practicing lawyer) combined provide a rather solid basis for decisions on recruitment and promotions. The GET came across no criticism as to the thoroughness of the current system. It takes the view that should the Law Office eventually become more independent and thus responsible for the recruitment of its own staff, similar principles should apply.

187. It should be added that in respect of promotions, the Public Service Commission also takes into account the law officers' and prosecutors' performance and appropriate execution of their duties, which is under the supervision of the Attorney General, the Deputy Attorney General and in respect of prosecutors, the Head of the Criminal Law Department, as reflected in their annual appraisal reports.

188. The gross annual salary of a Counsel of the Attorney General's Office at the beginning of his/her career is €29 648. The gross annual salary of a public prosecutor at the beginning of his/her career is €23 885. These basic salaries are also adjusted in accordance with seniority and grading of each official. Public Prosecutors are entitled to a monthly on-call allowance, which is calculated per day during weekends and bank holidays. The gross annual salary of the Attorney General and the Deputy Attorney General is €136 756. In addition, these high-ranking officials are entitled to various benefits, such as allowances for representation, a service car and fuel allowances etc. None of the abovementioned persons is entitled to any of the aforementioned benefits after his/her term of office.

189. The salaries and benefits constitute part of the annual budget of the Law Office of the Republic, which is approved by the House of Representatives and integrated into the Annual State Budget. Every year, the Law on the Annual State Budget is published in the Official Gazette of the Republic. The General Auditor's Office exerts control over the expenses of the Law Office of the Republic.

Case management and procedure

190. Members of the Law Office, including public prosecutors, who are allocated to the Criminal Law Department of the Attorney General's Office have prosecutorial functions. The Head of this Department assigns the cases to prosecutors. In some situations, depending on the merits and the gravity of a particular case, the Attorney General or the Deputy Attorney General themselves assign the cases or may even take over a case. However, as a general rule, criminal cases which fall within the competence of the district courts (competence to deal with offences punishable with imprisonment of a term not exceeding five years or with a fine not exceeding £50 000 or both) are to be assigned to the public prosecutors, whereas criminal cases falling under the competence of the assize courts are assigned to the legal officers who are allocated to the Criminal Law Department.

191. It is the Constitution (Article 113.2) that provides the Attorney General or his subordinate officials, instructed by him, to exercise the hierarchical power within the Law Office in respect of the allocation of cases among the individual prosecutors and legal officers involved in prosecutions. This power includes re-allocation of cases. There is no system for random distribution of criminal cases within this service. It was explained to the GET that random distribution of cases cannot be fully applied as the number of law officers and prosecutors is limited in the Law Office, as well as in the districts, and that cases have to be distributed largely following the officials' experience and expertise. Moving a case from one prosecutor/legal officer to another is considered an informal decision which need not be documented with any reasons. Moreover, the Constitution (Article 113.2) also extends this hierarchical power in respect of decisions to instituting criminal proceedings or discontinuing such proceedings. The Constitution provides that all such decisions are to be taken "in the public interest", but the GET did not come across any complementary provisions that would regulate this power any further. The GET is of the opinion that these powers are logical in a hierarchical system like the one in Cyprus. That said, the decisions taken ought to be subject to sufficient checks and balances, e.g. be guided by strict criteria and the justifications sufficiently documented.

192. In addition to these powers, the Attorney General may, at any time during court proceedings, remove a case from an assize court and send it to a district court to be tried summarily. This power has been confirmed by the Supreme Court. The GET was informed that such decisions could also be taken without providing any reasons, which appeared to be an issue of some controversy among judges met by the GET. In consequence of its above reasoning, the GET sees no reason why such decisions should not be reasoned and documented.

193. In view of the above, **GRECO recommends i) that criteria for the distribution of criminal cases among prosecuting staff be introduced; and ii) that decisions and instructions, such as to re-allocate cases within the Law Office or to discontinue criminal cases be justified in writing.**

Ethical principles, rules of conduct and conflicts of interest

194. As already noted in respect of recruitment, being part of the Public Service, prosecutors and legal officers in Cyprus are subject to the legislation regulating this service, in particular the Public Service Law. Part VI of this Law, entitled "Duties, Obligations and Rights of Public Officers" entails provisions which apply to all public

officials, including prosecutors: the principles of legality, impartiality and objectivity. Moreover, the PSL deals with conflicts of interests. These rules are complemented with a list of sanctions included in Part VII PSL ("Disciplinary Code").

195. Furthermore, the above regulations of the PSL have been further developed in the Guide of Conduct and Ethics for Public Servants, approved by the Council of Ministers and enacted in 2013. The Guide was drafted by the Public Administration and Personnel Department. The Guide is also applicable to all public officials, including prosecutors.

196. Having a closer look at the Guide, it contains a number of principles that apply to all public officials in their daily dealings and contacts with the public under the headings "propriety", "professionalism" and "integrity". Moreover, the Guide also contains principles for public officials when dealing more directly with "citizens' affairs/queries". That part of the Guide provides guidelines under the headings "Respect for the Law", "Reliability, responsibility and transparency", "Personal data protection" and "Principles of Good Administration". Public officials are to behave properly, honestly, independently, competently, with integrity and professionalism in contacts with co-workers and the public. Public officials are also obliged to report potential conflicts of interest.

197. The GET welcomes the prosecuting staff being guided by legislation, as well as a code of ethics/conduct, which is rather well-developed and provides guidance in their function as public officials ("civil servants"). That said, it notes that this regulatory framework applies in respect of all public officials and is not adapted to the specific functions of prosecuting staff. Moreover, it was told that the prosecution service had not been involved in the establishment of these instruments and understood that staff of the Attorney General's Office would welcome a code of ethics particularly addressing staff carrying out prosecutorial functions, as a complement to the existing general texts. Such an instrument should preferably be developed by broad participation of the officials (at all levels) concerned and needs to be able to evolve over time as appropriate. The development of a code would appear even more important if the Law Office and prosecutorial functions were to become more independent and autonomous in the future. Consequently, **GRECO recommends that a code of ethics be established for the particular functions of prosecutorial staff, offering adequate guidance on conflicts of interest and other integrity related matters as appropriate (e.g. gifts, recusal, third party contacts, handling of confidential information) and ii) that it be made accessible to the public.**

Prohibition or restriction of certain activities

Incompatibilities and accessory activities, post-employment restrictions

198. According to Section 65(2) PSL, public officers and prosecutors are, as a main rule, not allowed to practice any profession or trade or to employ themselves in any occupation or business other than their employment in the Public Service. That said, in exceptional cases and on the recommendation of the appropriate authority, the Minister of Finance, with the consent of the Minister of Labour and Social Security, may grant permission to a public officer for part-time employment, under specific conditions as the Minister might consider necessary, as long as such employment will not affect the efficient performance of the public officer's main duties. The GET understood that such a request also requires the approval of the Attorney General. The same would in principle apply in respect of the management of any company or partnership or any other private undertaking, according to Section 65(3)(a) PSL.

199. Furthermore, according to Section 62(3) PSL public officers may not receive payment for any publication or broadcast without the permission of the appropriate authority (Office of the Attorney General).

200. In addition to the above, according to the Guide of Conduct and Ethics for Public Servants, under the title "Integrity", public officials may not use their official position in an improper or unethical manner in order to gain employment opportunities outside the public service and any such prospect of employment must not create a potential conflict of interest with their position in the public service.

201. According to Section 65(3)(b) PSL, public officers are not allowed to hold any shares or other interest in any company or partnership, which is not public, or in any other private undertaking, without the permission of the Minister of Finance. Moreover, according to paragraphs (4) and (5) of the same Section, the Minister of Finance is to grant such permission where it will benefit the public interest or when the interest of the public officer is derived from an inheritance and the possession of the shares will not affect the performance of his/her duties. However, a public officer has the right to acquire shares of public companies, the number of which shall not exceed the percentage of the share capital to be fixed by the Minister of Finance.

202. No public officer is allowed to acquire either directly or indirectly any movable or immovable property, by taking advantage of his position for this purpose, or to hold such property where his personal interests in such property are in conflict with his public duties (Section 66.1 PSL). (The particular issue of gifts is developed below.)

203. There are no specific rules regulating public officers' (prosecutors') employment or engagement after having exercised judicial functions; however, the GET did not come across any controversies in this respect.

Recusal and routine withdrawal

204. There are rules applying to all civil servants (thus also applying to law officers and public prosecutors) provided in Articles 60(2)(b) PSL, not to deal with matters where s/he or a close relative may have a personal benefit. These rules are also connected to disciplinary and criminal sanctions (Articles 73-86 PSL). In addition, the GET was told that a prosecutor/legal officer him/herself may request to be removed from a case if s/he has a personal link with a person directly involved in the case and/or a personal interest in a particular case, or the Attorney General may decide to move a prosecutor for such reasons. The GET is of the strong opinion that, whenever a conflict of interest occurs, there ought to be an explicit obligation, subject to sanctions, for a prosecuting official to consider such a matter and to report it within the hierarchical structure. Currently, the PSL contains such rules, although they appear rather limited in scope. Such rules ought to be further developed in a code of ethics related to prosecutorial staff, see paragraph 197.

Gifts

205. Section 69(1) PSL contains a specific regulation concerning gifts in respect of public officials (including prosecutors): "(1) No public officer is allowed, either directly or indirectly, to receive or give any presents in the form of money, other goods, free trips or other personal benefits". However, exceptions are made for "ordinary gifts from or to personal friends" as well as for the retirement from service, where a public officer may accept a present according to "a prescribed manner". Moreover, exceptions also exist for special cases where the Council of Ministers considers that it would be undesirable or contrary to public interest to reject such a present.

206. In cases where it would be undesirable for the sake of public interest to reject a present, the public officer may accept it, but s/he shall immediately report the matter to the head of department, where the matter is to be dealt with in the prescribed manner (Section 69(2) PSL). Section 69(3) PSL provides for an obligation upon public officers to immediately report to the head of department the offer of a present made to him/her in

contravention of the provisions of this Section and the present is to be dealt with in the prescribed manner. Section 69(4) PSL prescribes that if a present, monetary or otherwise**,** is offered or given to an officer in consideration of a service rendered or to be rendered the officer in his/her official capacity, the officer must immediately inform the head of department about it. Moreover, Section 69 A PSL provides for an obligation to report reasonable causes of corruption that a public official comes across in his/her service.

207. The GET welcomes that the matter of gifts being dealt with in the Public Service Law; however, rules on gifts also need to be elaborated in a future code of ethics relating to prosecutorial staff, see paragraph 197.

Third party contacts, confidential information

208. The Public Service Law contains some general rules in respect of public servants' contacts with third parties, e.g. not to give technical or professional advice without prior permission of the service (Section 67(3) PSL) and to carry out their duties with impartiality and in an objective manner (Section 60(2) PSL). Moreover, it is an offence by a public servant, who has been the subject of an attempt at influence by a third party not to report such a matter within his/her hierarchy.

209. Also the Guide of Conduct and Ethics for Public Servants contains general rules on public officials' role to act or not to act in their contacts with the citizens. These rules apply also to prosecutors, but are not specific to the particularities of the functions of law officers/prosecutors. The authorities stress that every member of the Law Office, if a third party has approached him/her, is to report this to the Attorney General. The GET sees a need also to develop guidelines in respect of third party contacts in the particular context of prosecuting staff, where pre-trial and trial proceedings are at the forefront, in a future code of ethics, see paragraph 197.

210. As far as the handling of <u>confidential information</u> is concerned, Section 67 PSL provides that all information, written or oral, which comes to the knowledge of a public officer in the execution of his/her duties, shall be confidential and the communication of such information to any person is prohibited, except for the proper performance of an official duty or on the express direction of the appropriate authority. Moreover, when a public officer is served with a summons to give evidence on a matter relating to the performance of his/her duties or to produce an official document which is in his/her custody, s/he shall refer this matter to the appropriate authority for a decision on whether such evidence or the production of such document is contrary to the public interest, in which case the appropriate authority, after consulting the Attorney General of the Republic, shall determine the matter accordingly.

211. Moreover, in the Code of Conduct and Ethics for Public Servants, under the title "Personal data protection", it is provided that "particular care should be taken to handle with confidentiality personal data or information about citizens gained in the discharge of their duties and to safeguard their security".

212. In addition, Section 135 of the Criminal Code criminalises the disclosure of an official secret or a state secret by a public official; this is an offence punishable by imprisonment.

<u>Declaration of assets, income, liabilities and interests</u>

213. Prosecutors and law officers, like all public officials are, according to the Public Service Law, to declare assets.

214. Section 65(6) PSL provides that every public officer upon appointment is to disclose to the public service the particulars of any investment or interest that s/he may have in any company, partnership or other private undertaking. According to Section 66(2) and (3) PSL, public officers are obliged to submit in March every third year, a declaration regarding any changes that may have taken place in his/her personal assets, or those of his/her spouse and children whom s/he protects and supports. If there are no changes, a negative declaration is submitted. The appropriate authority, may, with a reasoned decision, require the submission of an interim declaration, giving a reasonable time-limit for its submission. It may also require clarifications about the particulars submitted and may also check the accuracy of the public officer's declaration. The disclosure of a false capital statement submitted by a public officer renders him/her liable to disciplinary proceedings. Whenever a reasonable suspicion arises as to the source of a public officer's financial means, an inquiry is to be carried out for the purpose of ascertaining the source of such means. If, as a result of such an inquiry, it is established that the public officer had acquired such means under circumstances which constitute a criminal or disciplinary offence, the appropriate authority is to proceed to take all necessary measures". The GET noted that developed rules on declarations of assets are in place in the public service. That said, it was informed on-site by the authorities that, despite the existence of the PSL provisions, until now no measures have been taken for their implementation in practice. The authorities explained that this was due to the fact that the Supreme Court on 17.05.2011, in the Appeal 94/2008, had declared such declarations unconstitutional. However, after the visit, the GET was informed that Article 15 of the Constitution had been amended on 28 April 2016 (Law 69(I) 2016) to contain an explicit provision to the effect that measures taken in the interest of transparency of public life or for the purpose of measures against corruption in public life do not interfere with the right to private and family life, which would exclude the possibility of challenging the constitutionality under Article 15 of the Constitution of the obligation to submit asset declarations under the PSL. The GET accepts that this amendment appears to eliminate the possible unconstitutionality in this respect under the PSL.

215. The GET notes that the Attorney General and his/her Deputy are not subject to the Public Service Law and are therefore currently under no obligation to declare assets. The GET was informed that there had been attempts to introduce such an obligation; however, currently, there was no draft legislation to this effect. Having regard to the fact that draft legislation obliging all judges to declare assets had been adopted by Parliament, it would make sense also to have a similar obligation in respect of the Attorney General and his/her Deputy, which is already in place in respect of all other officials at the Law Office. The GET wishes to stress that such legislation should preferably also oblige spouses and dependent family members to declare assets etc. (see paragraph 153).

Supervision and enforcement

216. As a starting point, it follows from Articles 112.4 (in conjunction with Articles 133.10 and 153.10) of the Constitution that no criminal proceedings/action can be brought against the Attorney General and the Deputy Attorney General in respect of their official functions. These officials enjoy so called functional immunity in the same way as Supreme Court judges. This functional immunity may, however, be lifted and proceedings be brought against these officials; this happened in 2015 in a case where the Deputy Attorney General was dismissed and subsequently subject to criminal proceedings. That said, the law officers and prosecutors, like any other public officers, are not subject to any form of immunity or special procedures in respect of their criminal liability.

217. As far as the supervision and enforcement of the non-criminal provisions is concerned, PSL, Part VII – "Disciplinary Code" (Sections 73-86) is applicable to prosecutors (in their capacity as public officers). According to Section 73 PSL, a public

officer is liable to disciplinary prosecution if s/he commits an offence involving dishonesty or moral turpitude; or s/he does or fails to do something in a manner which amounts to a contravention of any of the duties or obligations of a public officer (such as violations in respect of gifts, engagement in accessory activities, holding of financial interests, treatment of confidential information etc.). The GET notes that the term "duties or obligations of a public officer" is to be interpreted broadly to include every duty or obligation imposed on a public officer under the Public Service Law or any other law or regulation or under any subordinate instrument, order or direction issued.

218. The following disciplinary punishments may be imposed under the provisions of the PSL (Section 79):(a) reprimand; (b) severe reprimand; (c) disciplinary transfer; (d) stoppage of annual increment; (e) deferment of annual increment; (f) fine not exceeding the emoluments of three months; (g) demotion in salary scale; (h) demotion to a lower post; (i) compulsory retirement; and (j) dismissal.

219. Dismissal entails forfeiture of all retirement benefits. When an officer is punished with dismissal, compulsory retirement or demotion to a lower post, this fact is published in the Official Gazette of the Republic.

220. The disciplinary procedure is described in Sections 81-86 PSL. A first schedule of the proceedings is to be carried out by the authority responsible for the prosecutor (i.e. the Office of the Attorney General), which in a summary way tries a case. If that authority comes to the conclusion that a disciplinary violation has taken place, its evidential material is to be finally tried by the Public Service Commission. The accused public servant (e.g. the prosecutor) is always informed of the various steps and is invited to be heard as to the substance of a case as well as in respect of the punishment.

221. It is to be noted that the Public Service Commission will not deal with a case unless a written proposal to that end has been submitted by the authority in charge of the public official; i.e. the Office of the Attorney General.

222. In a situation where a public official (prosecutor) has been convicted by a court for an offence relating to dishonesty of moral turpitude, the Public Service Commission is to seek the opinion of the Attorney General, after having given the convicted official the opportunity to be heard, whether the offence also requires a disciplinary punishment.

223. The GET takes the view that the legislation in place (PSL) provides an adequate framework for dealing with disciplinary proceedings and measures in respect of the staff dealing with criminal prosecutions. Moreover, it takes note of the fact that measures are even possible in reality against the high officials falling outside the Public Servant Law; in 2015, the Deputy Attorney General was dismissed from the Law Office by the Supreme Court (full bench) following disciplinary actions initiated by the Attorney General.

Advice, training and awareness

224. The GET was informed that, as a general rule, newly recruited public officers, including members of the Law Office of the Republic, including prosecutors, undergo induction training covering, *inter alia*, the legal framework and the functioning of public administration. The Cyprus Academy of Public Administration, established by decision of the Council of Ministers, is in charge of the organisation of such training.

225. In particular, concerning the context and the application of the Guide of Conduct and Ethics for Public Servants, the Public Administration and Personnel Department, in co-operation with the Cyprus Academy of Public Administration and the Ombudsman for Public Administration and Human Rights, organises seminars for all public officials, where members from the Legal Service of the Republic have participated. This training deals with ethics, expected conduct, conflicts of interest, prevention of corruption and other

related issues, contained in the Guide on Conduct and Ethics for Public Servants, as referred to above.

226. In addition, the authorities stress that all members of the Law Office of the Republic, including public prosecutors, in order to obtain their license to practice as lawyers, have already undergone one year of training to pass the Bar examinations (Section 4 of the Advocates Law). One of the courses, is about the Code of Ethics for Lawyers (based on the Advocates Law).

227. The GET takes note of the information provided which indicates that prosecuting staff like all other public officials in Cyprus are subject to training in their capacity as members of the public service. This is good; however, there is no institutionalised training for them focusing on their particular role in dealing with prosecutions and connected tasks. This is a lacuna in the system. Considering the limited number of staff concerned, the GET sees no need to establish a particular institution for such training; however, induction training programmes - as well as regular in-service programmes - ought to be set up for the staff concerned in ethics and expected conduct, corruption prevention etc., preferably in tune with a future code of ethics/conduct as recommended in paragraph 199. This would appear particularly important should the prosecution service and prosecutors in Cyprus gain more independence in the future. **GRECO recommends that induction and in-service training programmes, specialised towards the needs of prosecutorial staff in respect of ethics, prevention of corruption etc. be developed by the prosecution service as a complement to the general training applicable to all public officials in Cyprus.**

228. As far as in-service advice in situations, such as conflicts of interest is concerned, the GET is satisfied that this is permanently available within the framework of the existing organisation, which is structured in a hierarchical manner.

VI. RECOMMENDATIONS AND FOLLOW-UP

229. In view of the findings of the present report, GRECO addresses the following recommendations to Cyprus:

Regarding members of Parliament

i) **that all forms of remuneration and benefits received (from public and private sources) by members of parliament be subject to clear rules, adequate auditing and public transparency** (paragraph 46);

ii) **that a code of ethics/conduct for members of parliament - including their staff as appropriate – be adopted, covering various situations of conflicts of interest (e.g. gifts and other advantages, third party contacts, lobbyists, accessory activities, post-employment situations)** (paragraph 52);

iii) **that the preventive measures against conflicts of interest in respect of members of parliament be enhanced in respect of potential conflicts as well as in respect of conflicting interests that may emerge during parliamentary proceedings and that clear rules for the disclosure of such situations be articulated in written form** (paragraph 57);

iv) **i) that consistent rules be elaborated concerning the acceptance by members of parliament of gifts, hospitality and other benefits including special support provided for parliamentary work, and ii) that internal procedures for the valuation and reporting of gifts, and return of those that are unacceptable, be developed** (paragraph 60);

v) **i) that a detailed assessment be carried out in respect of various forms of potential third party impact (including lobbying); and ii) that rules be introduced for members of parliament on interaction with third parties that may seek to influence the parliamentary process** (paragraph 67);

vi) **that the existing regime of asset declarations be further developed i) by ensuring that all forms of assets, income and liabilities above a certain threshold be declared at their appropriate value; ii) that the declarations be made publicly available promptly after their submission to the appropriate supervisory body; and iii) by considering widening the scope of the 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)** (paragraph 76);

vii) **that the current mechanism for monitoring declarations of assets submitted by members of parliament be subject to an in-depth evaluation with a view to establishing an independent and effective mechanism for such monitoring** (paragraph 95);

viii) **that the parliamentary authorities develop an integrity policy to prevent conflicts of interest and risks of similar deficiencies in respect of members of parliament through i) awareness raising on an institutional level, ii) in the form of handbooks and regular training and iii) on an individual basis, in the form of a dedicated service providing confidential counselling** (paragraph 98);

Regarding judges

ix) that the composition of the Supreme Council of Judicature be subject to a reflection process considering its representation within the judiciary as a means of preventing potential or perceived situations of conflicts of interest within the Council (paragraph 119);

x) that the integrity requirement for appointment as a judge be guided by precise and objective criteria which are to be checked before appointment/promotion, and that such criteria be made available to the public (paragraph 128);

xi) that a code of ethics/conduct be elaborated on the basis of broad involvement of various members of the judiciary, in order to manifest and develop standards that are commonly agreed aimed at the particular functions of judges, offering guidance in respect of areas such as conflicts of interest and other integrity related matters (e.g. gifts, side activities, recusal, third party contacts, handling of confidential information) (paragraph 144);

xii) that dedicated training of judges in respect of judicial ethics, conflicts of interest and corruption prevention be introduced as a well-defined part of the induction training of newly recruited judges and provided at regular intervals in the form of dedicated in-service training of judges, based on existing provisions and practice as well as yet to be established ethical guidelines and European standards (paragraph 166);

Regarding prosecutors

xiii) that reform considerations concerning the Law Office of the Republic include means to strengthen the independence of the prosecutorial functions and the capacity of the individual law officers and prosecutors to conduct their duties in a more autonomous way, guided by the safeguards necessary under the rule of law (paragraph 176);

xiv) i) that criteria for the distribution of criminal cases among prosecuting staff be introduced; and ii) that decisions and instructions, such as to re-allocate cases within the Law Office or to discontinue criminal cases be justified in writing (paragraph 193);

xv) that a code of ethics be established for the particular functions of prosecutorial staff, offering adequate guidance on conflicts of interest and other integrity related matters as appropriate (e.g. gifts, recusal, third party contacts, handling of confidential information) and ii) that it be made accessible to the public (paragraph 197);

xvi) that induction and in-service training programmes, specialised towards the needs of prosecutorial staff in respect of ethics, prevention of corruption etc. be developed by the prosecution service as a complement to the general training applicable to all public officials in Cyprus (paragraph 227).

230. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Cyprus to submit a report on the measures taken to implement the above-mentioned recommendations by 31 January 2018. These measures will be assessed by GRECO through its specific compliance procedure.

231. GRECO invites the authorities of Cyprus to authorise, at its earliest convenience, the publication of this report, to translate the report into its national language and to make the translation publicly available.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.