



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 24 March 2017
Publication: 28 March 2017

Public
GrecoRC4(2017)2

FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

POLAND

Adopted by GRECO at its 75th Plenary Meeting
(Strasbourg, 20-24 March 2017)

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I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Poland to implement the 13 pending recommendations issued in the Fourth Round Evaluation Report on Poland (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Poland was adopted at GRECO's 57th Plenary Meeting (19 October 2012) and made public on 25 January 2013, following authorisation by Poland ([Greco Eval IV Rep \(2012\) 4E](#)). The Fourth Round Compliance Report was adopted by GRECO at its 66th Plenary Meeting (12 December 2014) and made public on 24 February 2015, following authorisation by Poland ([Greco RC-IV \(2014\) 1E](#)).
3. As required by GRECO's Rules of Procedure, the authorities of Poland submitted a Situation Report with additional information regarding actions taken to implement the 13 recommendations that, according to the Compliance Report, had been partly or not implemented. This report was received on 28 September 2016 and served, together with the information submitted subsequently, as a basis for the Second Compliance Report.
4. GRECO selected Portugal and the Czech Republic to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Daniel MARINHO PIRES on behalf of Portugal and Ms Lenka HABRNÁLOVÁ on behalf of the Czech Republic. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO, in its Evaluation Report, had addressed 16 recommendations to Poland. In the subsequent Compliance Report, GRECO concluded that recommendations iv, viii and xiii had been dealt with in a satisfactory manner, recommendations ix, x, xi, xii, xiv, xv and xvi had been partly implemented and recommendations i, ii, iii, v, vi and vii had not been implemented. Compliance with the 13 pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendations i-iii, v and vi.

6. *GRECO recommended*
 - *that interactions by parliamentarians with lobbyists and other third parties who seek to influence the legislative process, be made more transparent, including with regard to parliamentary sub-committee meetings (recommendation i);*
 - *i) that the "Principles of Deputies' Ethics" be complemented in such a way so as to provide clear guidance to Sejm deputies with regard to conflicts of interest (e.g. definitions and/or types) and related areas (including notably the acceptance of gifts and other advantages, incompatibilities, additional activities and financial interests, misuse of information and of public resources, the obligation to submit asset declarations and on the attitude towards third parties such as lobbyists – and including elaborated examples); and ii) that such standards of ethics and conduct also be introduced for senators and disseminated among them (recommendation ii);*

- *both in respect of Sejm deputies and senators, the development of a clearly defined mechanism to declare potential conflicts of interest of parliamentarians – also taking into account interests of close family members – with regard to concrete legislative (draft) provisions (recommendation iii);*
 - *that the monitoring mechanism in respect of compliance by parliamentarians with standards of ethics and conduct - including rules on conflicts of interest and related areas - be reviewed in order to increase its effectiveness, in particular by simplifying the system of various bodies involved and by providing it with the necessary financial and personnel resources (recommendation v); and*
 - *both in respect of Sejm deputies and senators, (i) the establishment of a dedicated confidential counsellor with the mandate to provide parliamentarians with advice on ethical questions and possible conflicts of interests in relation to specific situations; and (ii) the provision of specific and periodic training for all parliamentarians on ethical questions and conflicts of interests (recommendation vi).*
7. GRECO recalls that according to the Compliance Report, the Office of *Sejm* Analysis and the Office of Senators' Matters had prepared analyses on appropriate steps necessary to fulfil the recommendations. The relevant committees of the *Sejm* and the *Senate* had discussed the conclusions contained in the analyses in several meetings. On that basis, the Office of Senators' Matters had prepared a draft "Law amending the Act on the Exercise of the Mandate of a Deputy or Senator, the Act on Restrictions on Conduct of Business Activities by Persons Performing Public Functions and the Act on Legislative and Regulatory Lobbying". The *Marshal* of the *Senate* had initiated the legislative procedure concerning this bill which was relevant, in particular, to recommendation i: it foresaw amending section 14(3) of the Act on Legislative and Regulatory Lobbying to provide that "the rules of performing professional lobbying activities in the *Sejm* and *Senate* and towards deputies and senators shall be determined by the Rules of Procedure of the *Sejm* and the *Senate*".
 8. On this basis, the Rules, Ethics and Senatorial Affairs Committee of the *Senate* had prepared draft amendments to the Rules of Procedure concerning senators and had disseminated them among senators for their opinion in April 2014. The authorities indicated that the draft amendments to the Rules of Procedure were relevant to recommendations i, iii and vi. Further works concerning the draft amendments to the Rules of Procedure concerning senators had been suspended until adoption of the above-mentioned draft law, since both drafts were interrelated.
 9. Regarding recommendation ii, the Rules, Ethics and Senatorial Affairs Committee of the *Senate* had prepared a draft Resolution which encompassed draft ethical rules for senators. Further works concerning the draft Resolution had been suspended until adoption of the above-mentioned draft law. As far as recommendation v is concerned, on the basis of consultations among relevant state bodies, the Ministry of Justice had prepared a draft "Law on asset declarations of officials performing public functions" which was aimed at unifying the rules concerning asset declarations, as well as simplifying and making the system of their control more transparent and effective. The draft was at the governmental consultation phase.
 10. Given the very early stage of the reform process and in the absence of any concrete information on the draft amendments to the Rules of Procedure concerning senators, noting also that no measures concerning *Sejm* deputies had been initiated and that recommendation v had a much broader scope than simply amending asset declaration checking, GRECO had concluded that recommendations i-iii, v and vi had not been implemented.

11. The authorities now indicate that, in March 2015, the Rules, Ethics and Senatorial Affairs Committee of the *Senate* withdrew the draft "Law amending the Act on the Exercise of the Mandate of a Deputy or Senator, the Act on Restrictions on Conduct of Business Activities by Persons Performing Public Functions and the Act on Legislative and Regulatory Lobbying" (cf. paragraph 7 above). The committee considered that in the first place works on the draft "Law on asset declarations of officials performing public functions" (cf. paragraph 9 above) should be finalised because of the substantive connection between both proposals. Works on the latter draft law have, however, been stopped. Moreover, works on the draft amendments to the Rules of Procedure concerning senators and on the draft Resolution which encompassed draft ethical rules for senators (cf. paragraphs 8 and 9 above) have been halted.
12. The authorities furthermore report on the following measures taken. On 17 March 2015, the Minister of Justice addressed the *Marshals* of the *Sejm* and the *Senate* requesting the acceleration of works aimed at implementing GRECO's recommendations. This was followed by informal talks between the Minister of Justice and the presidents of the relevant committees. On 29 May 2015, the Ministry of Justice – in cooperation with the Council of Europe – organised a conference on "Preventing corruption among parliamentarians, judges and prosecutors in view of GRECO's 4th Evaluation Round" in the *Sejm* premises for the attention of the *Marshals* of the *Sejm* and the *Senate*, presidents of deputies' and senators' committees and presidents of parliamentary clubs, ministers of finance and home affairs and representatives of other state bodies. Among the speakers were several foreign guests (including GRECO representatives) and representatives of the national institutions concerned. The main purpose of the conference was to turn the attention of relevant stakeholders to the importance of obligations resulting from GRECO membership and to the main aspects of the recommendations.
13. On 26 May 2015, the Committees for Rules and Deputies' Affairs, for Justice and Human Rights, for Deputies' Ethics and for Administration and Digitisation set up the *Sejm* Extraordinary Sub-committee for the implementation of GRECO's recommendations. The Sub-committee held two meetings in June 2015. A legal analysis had been provided by the *Sejm* Bureau of Research. The analysis concluded that no concrete works had been undertaken by the *Sejm* in order to prepare draft laws and draft amendments to the *Sejm* Rules of Procedure aiming to implement GRECO's recommendations. It furthermore indicated possible legislative and non-legislative solutions. The *Sejm* Bureau of Research also drafted a legal opinion on matters such as parliamentarians' conflicts of interest, incompatibilities and possible further prohibitions on additional activities. However, the works of the Sub-committee have not resulted in the drafting of any concrete proposals.
14. Finally, after the parliamentary elections of 25 October 2015, the Minister of Justice requested the *Marshals* of the *Sejm* and the *Senate* and the president of the Rules, Ethics and Senatorial Affairs Committee to implement GRECO's recommendations. In his letter of 6 April 2016, the president of that committee responded that the latter would review the previously drafted proposals to check whether they are up-to-date and that the question of cooperation with the Deputies' Ethics Committee had already been discussed.
15. GRECO takes note of the information provided, according to which the draft legislation presented in the Compliance Report has been withdrawn from legislative proceedings and the works on draft ethical rules for senators and on draft amendments to the Rules of Procedure concerning senators have not been pursued. GRECO is very much concerned that this is a significant step backwards. GRECO notes that several attempts have been made to draw the attention of relevant

stakeholders to the need and importance of implementing GRECO's recommendations, e.g. the joint organisation with the Council of Europe of a specific conference and the establishment of a parliamentary sub-committee. However, it is very disappointing that those initiatives did not yield any concrete proposals. Bearing in mind that four and a half years have passed since the adoption of the Evaluation Report, GRECO urges the authorities to significantly step up their efforts to address the outstanding recommendations without further delay. It wishes to stress that those recommendations, which concern ethical standards and conflicts of interest, lobbying regulations and effective monitoring of the rules are of prime importance for the prevention of corruption among parliamentarians.

16. GRECO concludes that recommendations i-iii, v and vi remain not implemented.

Corruption prevention in respect of judges

Recommendation vii.

17. *GRECO recommended that the "Collection of principles of professional ethics for judges" be complemented in such a way as to offer proper guidance specifically with regard to conflicts of interest (e.g. definitions and/or types) and related areas (including notably the acceptance of gifts and other advantages, incompatibilities and additional activities).*
18. GRECO recalls that the National Council of the Judiciary (NCJ), which is responsible for the adoption of principles regulating the professional ethics of judges and exercising control over compliance by judges with such rules, had examined possible measures aimed at offering guidance with regard to conflicts of interest. The NCJ had decided to draw attention to the publication, on its website, of judgments in disciplinary proceedings concerning judges by the Supreme Court. GRECO stressed, however, that the recommendation required, more specifically, the provision of guidance with respect to a range of issues such as conflicts of interest, the acceptance of gifts and other advantages, incompatibilities and additional activities. Those matters were regulated in different legal acts but not complemented by practical guidance in a document such as the existing "Collection of principles of professional ethics for judges" or another supplementary instrument. In the absence of any concrete measures taken, GRECO concluded that the recommendation had not been implemented.
19. The authorities now report that, on 2 March 2016, the Ministry of Justice again requested the NCJ to implement the recommendation. It proposed the development of examples of conflict of interests based on the practical knowledge and experience of disciplinary commissioners participating in disciplinary proceedings. On 7 April 2016, the Ministry of Justice and the NCJ held a meeting to discuss possible measures to address the recommendation. At the end of September 2016, an overall analysis of possible conflicts of interest of judges was presented during the annual conference for disciplinary commissioners (a platform for discussions and exchange of experience).
20. At its plenary session on 11 January 2017, the NCJ decided that given the abstract and synthetic nature of the "Collection of principles of professional ethics for judges", inserting examples of conflict of interests into that document would not be feasible. Instead, the above-mentioned analysis and examples of conflicts of interest should be revised and put on the NCJ website; this was done in February 2017.¹ The document contains an overview of areas where conflicts of interest may

¹ The document is available in two folders of the NCJ website, "Commentaries" (*komentarze*) and "Current affairs" (*aktualności*), see <http://krs.pl/pl/dzialalnosc/wydarzenia-i-komentarze/c,12,komentarze-srodowiska->

arise and refers to relevant legislation, court practice, NCJ Resolutions and academic articles, e.g. with respect to incompatibilities, accessory activities, engagement in politics, professional and other organisations, etc. In addition, and on the basis of the above analysis, the NCJ decided² to supplement the Collection with a specific article 3a on conflict of interests which reads as follows:

“A judge shall avoid any kind of personal contacts and economic links with natural and legal persons or other subjects, as well as avoid undertaking private, professional and public activities, which can result in a conflict of interests and thereby influence his/her perception as an impartial person or undermine public trust in the judiciary.”

21. GRECO notes that a specific provision on conflicts of interest was inserted in the “Collection of principles of professional ethics for judges” and an analysis and examples of conflicts of interest were published on the NCJ website. GRECO takes the view that those measures address the main concerns underlying the recommendation. At the same time, it invites the authorities to further develop those tools on an on-going basis, in particular by regularly updating and complementing the NCJ online publication by further examples of conflicts of interest and related matters (including notably the acceptance of gifts and other advantages, incompatibilities and additional activities) and offering adequate solutions to resolving such conflicts. Moreover, it is critical that judges’ attention is drawn to those tools.
22. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation ix.

23. *GRECO recommended that appropriate legal, institutional and/or operational measures be put in place or strengthened to ensure a more in-depth scrutiny of judges’ asset declarations and to enhance the preventive dimension of asset declarations. This should include greater co-ordination of all relevant control bodies.*
24. GRECO recalls that at the stage of the Compliance Report, the recommendation had been partly implemented. Several measures had been taken, with the involvement of various authorities concerned, to reform the monitoring system with respect to asset declarations to be submitted by judges and other categories of persons concerned. They were aimed at strengthening co-operation among the bodies involved rather than entrusting this task to one leading body. It appeared that the Rules on review of asset declarations by fiscal authorities developed by the Ministry of Finance provided several tools for significantly strengthening in-depth control of the declarations – *inter alia*, by defining a wide range of sources of information to be taken into account – and co-operation with other bodies concerned. Moreover, draft legislation prepared by the Ministry of Justice provided, *inter alia*, that a number of asset declarations selected on a random basis be sent annually to the Central Anti-Corruption Bureau, for further in-depth analysis.
25. The authorities now indicate that after the parliamentary elections of 25 October 2015, the works on the draft “Law on asset declarations of officials performing public functions” have been stopped (see paragraph 11 above). In contrast, the guidelines contained in the Rules on review of asset declarations by fiscal authorities developed by the Ministry of Finance are still binding and applied.

[sedziowskiego/p,1](#) and <http://krs.pl/pl/aktualnosci/d,2017,2/4640,konflikt-interesow-jako-zagadnienie-etyki-zawodowej-sedziow-artykul-sedziego-michala-laskowskiego> (Polish only).

² NCJ Decision no. 14/17

26. GRECO is seriously concerned that, following the parliamentary elections of October 2015, the works on the draft “Law on asset declarations of officials performing public functions” have not been pursued. It recalls that the bill presented in the Compliance Report contained several positive features which responded to the concerns underlying the recommendation. *Inter alia*, it regulated the analysis of asset declarations, including documents to be taken into account for the comparison of data, the co-ordination of the analysis and co-operation of relevant authorities with the Central Anti-Corruption Bureau and fiscal offices, and it provided that a number of asset declarations selected on a random basis be sent annually to the Central Anti-Corruption Bureau, for further in-depth analysis. GRECO urges the authorities to resume their works aimed at improving the scrutiny of asset declarations submitted by judges (and other officials). However, given that the Ministry of Finance guidelines already presented in the Compliance Report are still in force, GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.

27. *GRECO recommended (i) that criminal liability be introduced for the intentional provision of false information by judges in asset declarations; and (ii) that measures be taken to ensure that disciplinary cases concerning improper conduct by judges are decided before the expiry of the statute of limitations, such as adequately extending the limitation period or providing for the interruption or suspension of the period of limitation under specified circumstances.*
28. GRECO recalls that in the Compliance Report it had concluded that the recommendation had been partly implemented. Draft legislation amending the Law on the Common Courts’ System (LCCS) had been presented, which explicitly provided for criminal liability of judges for false statements or concealment of the truth in asset declarations – as required by the first part of the recommendation – and eliminated the opportunity to escape disciplinary sanctions if a case before the disciplinary court is not concluded within three years.
29. The authorities now report that the draft law amending the LCCS (and other laws) referred to in the Compliance Report was adopted by Parliament on 20 February 2015, but has not come into force so far. After the parliamentary election of 25 October 2015 another draft law³ has been prepared. It was adopted by the Council of Ministries on 5 September 2016 and then submitted to Parliament. The law was adopted on 30 November 2016 and signed by the President of the Republic on 20 December 2016. The law was published in the Official Journal of Laws on 22 December 2016 (O.J. 2016, position 2103) and entered into force on 6 January 2017.
30. The law amended section 87 LCCS in order to explicitly provide for criminal liability in case of intentional provision of false information by judges in asset declarations. The amended section 87(9) LCCS reads as follows: “The declaration referred to in paragraph 1 shall be submitted under pain of criminal liability or false statement. The person who submits the declaration shall be obliged to include the following clause therein: ‘I am aware of the criminal liability for providing a false declaration.’ The clause substitutes the instruction of the authority competent to receive the statement on the criminal liability for false statements.”

³ Draft law amending the “Law on Complaints against the breach of the rights of a party to the proceedings to conduct the case in the preparatory proceedings run by or supervised by the prosecutor as well as to hear a case before the court, without undue delay” and other laws, see (Polish only) <https://legislacja.rcl.gov.pl/docs//2/12284705/12349500/12349501/dokument241529.pdf>

31. Moreover, the new law extends the statute of limitations decisive for the initiation of the disciplinary proceedings from three years to five years, and for the conduct of the proceedings from five years to eight years. The amended article 108 LCCS reads as follows: "(1) Disciplinary proceedings shall not be initiated after five years from the time of the act. (2) If disciplinary proceedings have been initiated within the period mentioned in paragraph 1, the statute of limitation is eight years from the time of the act."
32. GRECO acknowledges the adoption and entry into force of amendments to the LCCS, which explicitly provide for criminal liability of judges for false statements in asset declarations – as required by the first part of the recommendation – and extend the statute of limitations both for the initiation and the conduct of disciplinary proceedings (to five years and eight years respectively); GRECO takes the view that the latter amendment addresses the concerns underlying the second part of the recommendation, namely with respect to delays in disciplinary proceedings.
33. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

34. *GRECO recommended (i) the provision of on-going training to judges on conflicts of interest, rules concerning gifts, prohibition or restriction of certain activities and declaration of assets and private interests, by way of dedicated courses referring to practical examples; and (ii) the provision of proper dedicated counselling within the judiciary, in order to raise judges' awareness and provide them with confidential advice on questions of ethics and conduct – particularly with regard to the areas mentioned under (i) – in relation to specific facts, taking into account the need for common, nationwide solutions.*
35. GRECO recalls that the recommendation had been considered partly implemented in the Compliance Report. Some training on ethics and conduct had been provided to judges and prosecutors, which also included examination of practical cases decided by the disciplinary courts. In addition, several publications concerning ethical rules for judges had been issued and made available at the website of the National School of the Judiciary and Public Prosecution (NSJP). However, as altogether only 120 judges and prosecutors had attended the training and given that it was only organised in 2013, GRECO could not conclude that the first part of the recommendation had been fully implemented. With respect to the second part of the recommendation, GRECO was satisfied that 10 judges sitting in the Commission for Professional Ethics of the NCJ had been entrusted with counselling functions relating, in particular, to questions on conflicts of interest.
36. The authorities now report, with respect to the first part of the recommendation, that the NSJP conducts each year training for newly nominated judges on ethics and dignity in performing duties as well as on disciplinary issues. Two such training sessions were held in 2015, one in 2016 and two sessions are planned for 2017. The authorities stress that each newly nominated judge thus gains knowledge on ethical conduct including matters relating to conflicts of interest at the beginning of his/her professional career, which is then developed and updated during his/her career through continued training organised by the NSJP. The Programming Council of the NSJP establishes the agenda for training sessions and workshops each year, there is training on ethics in every agenda. Moreover, the NSJP organised three specific training activities on "Ethical and psychological aspects of performing judges' duties", in 2016, for approximately 200 judges and has planned five such training sessions, in 2017, for approximately 300 judges. The aim of the training is to provide knowledge on how to remove the causes of unethical conduct of judges.

It consists of three thematic blocs: courtroom, private life and cooperation with media.

37. Furthermore, the NSJP each year organises a conference on "Ethics in the practice of legal professions – mutual relations and expectations. European perspective." In 2015 and 2016 such conferences were held for 80 persons each, the 2017 conference is under preparation. The aim of the conference is the discussion on the correlation between the ethics of different legal professions and expectations of the representatives of those professions towards each other in legal proceedings (judges towards the proxies and prosecutors as well as defence counsels and lawyers towards judges). The experience of other European states and standards stemming from the jurisprudence of the European Court of Human Rights and the Court of Justice of the European Union are taken into account.
38. Finally, the authorities refer to plans of the NSJP to publish, in 2017, on its website, guidelines to judges and prosecutors on ethical conduct entitled "Ethics of judges and prosecutors in the light of jurisprudence of the disciplinary courts". The publication will be prepared by judges and prosecutors who have experience in disciplinary cases and will include the jurisprudence of disciplinary courts. It is to supplement the materials already published on the NSJP website which concern *inter alia* ethical conduct of judges ("The scope of disciplinary responsibility of a judge and the social sense of justice", Unblemished character – as the professional qualification of a judge", "Image creation – a judge's right or duty"⁴). Additionally, educational materials on ethics for judges were prepared for the conference held by the NCJ in 2016; the materials were then adjusted for publication on the NCJ website in February 2017 (see above under recommendation vii).
39. GRECO notes that several measures have been taken to provide training and guidance to judges on ethical questions. Judges undergo such training after their first appointment and throughout their career, and the NSJP organises specific training and awareness-raising events on ethical matters for the attention of judges (and prosecutors) on an annual basis. GRECO acknowledges that as a complement, guidelines and educational material on ethical conduct are being made available to judges (and prosecutors). GRECO concludes that the first part of the recommendation has now also been fully implemented. It encourages the authorities to persist in their efforts to provide guidance to judges on ethical matters in the future, including by regular training.
40. GRECO concludes that recommendation xi has been implemented satisfactorily.

Corruption prevention in respect of prosecutors

Recommendation xii.

41. *GRECO recommended that the "Collection of Ethical Principles governing the Prosecutors' Profession" (i) be disseminated among all prosecutors and made easily accessible to the general public; and (ii) that they be complemented in such a way so as to offer proper guidance specifically with regard to conflicts of interest (e.g. definitions and/or types) and related areas (including in particular the acceptance of gifts and other advantages, incompatibilities and additional activities).*
42. GRECO recalls that the "Collection of Ethical Principles governing the Prosecutors' Profession" had been distributed among prosecutors and made available to the public – *inter alia*, on the internet – as required by the first part of the

⁴ <https://www.kssip.gov.pl/sites/default/files/ab1605e9ebf6480920b0c91a01b0fa59.pdf>
<https://www.kssip.gov.pl/sites/default/files/kssip-kwartalnik-numer-4-10-2013.pdf>
<https://www.kssip.gov.pl/sites/default/files/kssip-kwartalnik-numer-2-12-2014.pdf>

recommendation. Regarding the second part of the recommendation, the National Prosecution Council (NPC) had examined the issue of supplementing the collection with a definition and types of conflicts of interest and guidance for prosecutors in questions of conduct. It had come to the conclusion that such measures were not advisable. In contrast, GRECO was of the firm opinion that further guidance, referring to practical examples – as already existed in other countries – would be beneficial to raising prosecutors’ awareness of corruption risks and offering solutions to resolving conflicts of interest. It therefore concluded that the recommendation had been partly implemented.

43. As regards the outstanding second part of the recommendation, the authorities now report that the Minister of Justice continued the discussions with the NPC on possible ways to implement the recommendation and, on 28 April 2016, sent a letter to the General Prosecutor requesting consideration of solutions to be introduced to meet the recommendation. The General Prosecutor has not taken a decision until now.
44. GRECO notes with concern that no tangible progress has been achieved in the implementation of the second part of the recommendation. It urges the authorities to step up their efforts to provide prosecutors with specific guidance on conflicts of interest and related areas.
45. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiv.

46. *GRECO recommended (i) that the competences of the National Prosecution Council for supervising compliance with ethical principles for prosecutors be clearly defined by law and that the Council be provided with adequate tools and powers for effectively performing this function; and (ii) that appropriate legal, institutional and/or operational measures be put in place or strengthened to ensure a more in-depth scrutiny of prosecutors’ asset declarations and to enhance the preventive dimension of asset declarations. This should include greater co-ordination of all relevant control bodies.*
47. GRECO recalls that draft legislation entrusting the NPC with clear powers to supervise prosecutors’ compliance with ethical principles, as required by the first part of the recommendation, had been elaborated. Regarding the second part of the recommendation, various measures had been initiated in order to reform the monitoring system with respect to asset declarations to be submitted by prosecutors (and other categories of persons concerned). This included rules and guidelines developed by the Ministry of Finance and by the General Prosecutor as well as the above-mentioned draft “Law on asset declarations of officials performing public functions”. GRECO concluded in the Compliance Report that the recommendation had been partly implemented.
48. The authorities now report that after the parliamentary elections of October 2015 the works on the draft legislation presented in the Compliance Report have not been pursued. They furthermore refer to the letter of the Minister of Justice to the General Prosecutor of 28 April 2016 (see under recommendation xii above) requesting consideration of solutions to be introduced to meet the recommendation. They also stress that the Rules on review of asset declarations by fiscal authorities developed by the Ministry of Finance as well as the guidelines prepared by the General Prosecutor are still binding and applied.
49. GRECO is seriously concerned that, following the parliamentary elections of October 2015, the works on the draft legislation entrusting the NPC with clear powers to

supervise prosecutors' compliance with ethical principles and on the draft "Law on asset declarations of officials performing public functions" – aimed at improving the scrutiny of asset declarations submitted by prosecutors (and other officials) – have not been continued. GRECO urges the authorities to resume their works. However, given that the rules and guidelines of the Ministry of Finance and the General Prosecutor already presented in the Compliance Report (relevant to the second part of the recommendation) are still in force, GRECO concludes that recommendation xiv remains partly implemented.

Recommendation xv.

50. *GRECO recommended (i) that criminal liability be introduced for the intentional provision of false information by prosecutors in asset declarations; and (ii) that measures be taken to ensure that disciplinary cases concerning improper conduct by prosecutors are decided before the expiry of the statute of limitations, such as adequately extending the limitation period or providing for the interruption or suspension of the period of limitation under specified circumstances.*
51. GRECO recalls that the recommendation had been considered partly implemented in the Compliance Report. Draft legislation on the Prosecutor's Office had been submitted which explicitly provided for criminal liability of prosecutors for false statements or concealment of the truth in asset declarations – as required by the first part of the recommendation – and introduced a profound reform of the disciplinary court system aimed at ensuring efficient adjudication of disciplinary cases regarding prosecutors. It appeared that this reform had the potential to prevent delays in disciplinary proceedings and eliminate opportunities to escape disciplinary sanctions if a case before the disciplinary court is not concluded within three years, thus addressing the concerns underlying the second part of the recommendation.
52. The authorities now refer to a new law on the Prosecutor's Office which was adopted by Parliament on 28 January 2016 and entered into force on 4 March 2016. The law provides, firstly, for the possibility to hold criminally liable a prosecutor who made a false statement in the asset declaration. Section 104(6) of the law on the Prosecutor's Office reads as follows: "The submission of a declaration referred to in paragraph 1, if it includes false statements, shall be prosecuted. The person who submits the declaration shall include the following clause therein: 'I am aware of the criminal liability for false statements included in the declaration.' The clause substitutes the instruction of the authority competent to receive the statement on the criminal liability for false statements."
53. Moreover, the new law extends the statute of limitations decisive for the initiation of the disciplinary proceedings from three years to five years, and for the conduct of the proceedings from five years to eight years. Section 141 of the law on the Prosecutor's Office reads as follows: "(1) Disciplinary proceedings shall not be initiated after five years from the time of the act. If proceedings have been initiated after five years they shall be discontinued. (2) If disciplinary proceedings have been initiated within the period mentioned in paragraph 1, the statute of limitation is eight years from the time of the act."
54. GRECO welcomes the adoption and entry into force of the new law on the Prosecutor's Office which explicitly provides for criminal liability of prosecutors for false statements or concealment of the truth in asset declarations – as required by the first part of the recommendation – and extends the statute of limitations both for the initiation and the conduct of disciplinary proceedings (to five years and eight years respectively). GRECO takes the view that the latter amendment adequately

addresses the concerns underlying the second part of the recommendation, namely with respect to delays in disciplinary proceedings.

55. GRECO concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

56. *GRECO recommended (i) the provision of on-going training to all prosecutors on conflicts of interest, rules concerning gifts, prohibition or restriction of certain activities and declaration of assets and private interests, by way of dedicated courses referring to practical examples; and (ii) the provision of proper dedicated counselling in prosecutors' offices, in order to raise prosecutors' awareness and to provide them with confidential advice on questions of ethics and conduct – particularly with regard to the areas mentioned under (i) – in relation to specific facts, taking into account the need for common, nationwide solutions.*
57. GRECO recalls that some training on ethics and conduct had been provided to judges and prosecutors, and it expected such training to be continued on a regular basis (first part of the recommendation). Regarding the provision of dedicated counselling in prosecutors' offices (second part of the recommendation), the General Prosecutor's Office had examined the feasibility of introducing a solution similar to that adopted by the NCJ in relation to confidential counselling for judges. GRECO urged the authorities to step up their efforts to put in place an adequate solution and concluded that the recommendation had been partly implemented.
58. Regarding the first part of the recommendation, the authorities now indicate that the NSJP organised training and workshops in 2015 and in 2016 and intends to continue its activities also in the future. They refer to the annual conference entitled "Ethics in the practice of legal professions – mutual relations and expectations. European perspective." (see above under recommendation xi). Moreover, in 2016 two training sessions on "The rules on prosecutors' ethics connected with their duty and outside thereof" have been conducted for approximately 140 prosecutors. The training was aimed at shaping and strengthening appropriate ethical conduct among prosecutors. It also included discussions on the jurisprudence of the High Court in disciplinary cases. It is planned to hold three such training sessions for approximately 180 prosecutors in 2017.
59. As far as the second part of the recommendation is concerned, the authorities refer to the letter of the Minister of Justice to the General Prosecutor of 28 April 2016 (see under recommendation xii above) requesting consideration of solutions to be introduced to meet the recommendation.
60. GRECO is satisfied with the information provided with regard to the first part of the recommendation, i.e. on further training activities on ethical matters for prosecutors which are to be continued in the future. GRECO encourages the authorities to keep this issue high on the agenda in the years to come. Regarding the second part of the recommendation, GRECO is concerned that no progress has been achieved since the adoption of the Compliance Report. It urges the authorities to step up their efforts to put in place an adequate solution which, according to the Evaluation Report, is clearly needed in order to raise prosecutors' awareness about questions of ethics and conduct, provide for confidential advice and develop a general understanding of and a unified practice with regard to preventing and resolving conflicts of interest.
61. GRECO concludes that recommendation xvi remains partly implemented.

III. CONCLUSIONS

62. **In view of the conclusions contained in the Fourth Round Compliance Report on Poland and in view of the above, GRECO concludes that Poland has implemented satisfactorily or dealt with in a satisfactory manner in total seven of the sixteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, four have been partly implemented and five have not been implemented.
63. More specifically, it is recalled that recommendations iv, viii and xiii had been considered as implemented satisfactorily or dealt with in a satisfactory manner in the (first) Fourth Round Compliance Report on Poland ([Greco RC-IV \(2014\) 1E](#)). In addition, recommendations vii, x, xi and xv have now been implemented satisfactorily. Recommendations ix, xii, xiv and xvi have been partly implemented and recommendations i, ii, iii, v and vi have not been implemented.
64. With respect to members of parliament, GRECO is seriously concerned about the lack of any tangible progress. The draft legislation presented in the Compliance Report has been withdrawn from legislative proceedings and the works on draft ethical rules for senators and on draft amendments to the Rules of Procedure concerning senators have not been pursued. This is a significant step backwards. GRECO notes that several attempts have been made to draw the attention of relevant stakeholders to the need and importance of implementing GRECO's recommendations. However, those initiatives did not even yield any concrete proposals.
65. Bearing in mind that four and a half years have passed since the adoption of the Evaluation Report, GRECO urges the authorities to significantly step up their efforts to address the outstanding recommendations without further delay. It wishes to stress that those recommendations, which concern ethical standards and conflicts of interest, lobbying regulations, effective monitoring of the rules and checks of asset declarations are of prime importance for the prevention of corruption among parliamentarians.
66. As far as judges and prosecutors are concerned, training on ethical questions and conduct has been provided to a number of professionals and GRECO can only encourage the authorities to continue such activities on a regular basis as planned. Moreover, the new law on the Prosecutor's Office explicitly provides for criminal liability of prosecutors for false statements or concealment of the truth in asset declarations and extends the statute of limitations for the initiation and conduct of disciplinary proceedings – as required by GRECO's recommendations. Corresponding provisions for judges, in the form of amendments to the Law on the Common Courts' System, have also been adopted by Parliament.
67. On the other hand, the authorities are urged to step up their efforts to provide proper guidance to prosecutors on conflicts of interest and related matters, to put in place more in-depth monitoring of asset declarations submitted, to ensure effective supervision by the National Prosecution Council of prosecutors' compliance with ethical principles and the provision of dedicated counselling in prosecutors' offices on such matters. GRECO is very much concerned that the work on several draft legislative acts presented in the Compliance Report, which had the potential to address at least part of GRECO's recommendations, was stopped after the parliamentary elections of October 2015. It is crucial that the authorities enter again into a reform process to promote ethics and integrity in the judiciary and the prosecution service and to prevent corruption in these core branches of power. Finally, GRECO wishes to stress the importance of preserving the independence of the judiciary and the key role of the National Council of the Judiciary in this context.

68. In conclusion, in view of the fact that nine out of sixteen recommendations are yet to be implemented GRECO, in accordance with Rule 31, paragraph 9 of its Rules of Procedure, asks the Head of delegation of Poland to submit additional information on the pending recommendations, namely regarding the implementation of recommendations i, ii, iii, v, vi, ix, xii, xiv and xvi by 31 December 2017 at the latest.
69. Finally, GRECO invites the authorities of Poland to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.