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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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

COMPLIANCE REPORT

SWEDEN

Adopted by GRECO at its 69th Plenary Meeting
(Strasbourg, 12-16 October 2015)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Sweden to implement the recommendations issued in the Fourth Round Evaluation Report on Sweden which was adopted at GRECO's 61st Plenary Meeting (18 October 2013) and made public on 12 November 2013, following authorisation by Sweden ([Greco Eval IV Rep \(2013\) 1E](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of Sweden submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 April 2015 and served, together with some additional information, as a basis for the Compliance Report.
3. GRECO selected Austria and Montenegro to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Verena WESSELY, Department of International Instruments and Cooperation, Bureau of Anti-Corruption, Ministry of the Interior, on behalf of Austria and Mr Dusan DRAKIC, Senior Advisor, Directorate for Anti-Corruption Initiative, on behalf of Montenegro. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

5. GRECO addressed eight recommendations to Sweden in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. The authorities of Sweden indicate that, in November 2013, the Speaker of Parliament (Riksdag) and the political party group leaders agreed to convene a working group in response to GRECO's recommendations in respect of parliamentarians. The Working Group, chaired by the First Deputy Speaker of the Riksdag and consisting of one member from each political party represented in the Riksdag, was given the task of examining possible follow-up to the recommendations issued by GRECO. The Working Group carried out its work during the spring of 2014 and presented its findings to the Speaker in November the same year. The findings of the Working Group are contained in a report entitled "*A Code of Conduct for the Members of the Riksdag – Final Report*", which is a printed public document issued by the Riksdag.

Recommendation i.

7. *GRECO recommended (i) that a Code of Conduct for members of parliament be adopted and made easily accessible to the public; and (ii) that it be complemented by practical measures for its implementation, such as dedicated training or counselling.*
8. The authorities refer to the general information provided in paragraph 6, concerning a proposed Code of Conduct for the Members of the Riksdag and a Guide thereto,

which are available to GRECO. In addition, they state that the parliamentary Working Group when submitting this proposed Code of Conduct (hereinafter "Code of Conduct") to the Speaker for adoption suggested that one way of awarding legitimacy to the Code would be for the Speaker and the party group leaders to adopt it on behalf of all MPs. As far as the process of adoption of the text is concerned, the authorities only indicate that the Code has been sent by the Speaker to the various party groups in the Riksdag for possible comment and that it has "won support" among the party group leaders. They add, however, that in order for the Code to be fully applied, certain legislative amendments are required.

9. GRECO welcomes the actions taken by the Riksdag in order to comply with the current recommendation. As far as the content of the Code is concerned, GRECO notes that this text consists of seven parts, dealing with introductory and general points, conflicts of interest, registering of financial interests, bribes, gifts, upholding of the code and sanctions. The content of the Code has clear links to all recommendations addressed by GRECO to Sweden in respect of parliamentarians. GRECO welcomes the proposed text which summarises the regulatory framework and values that are central to an assignment as a member of parliament in Sweden, as stated at the outset of the Code. GRECO also notes that the Code is accompanied by a Guide containing comments on the various elements of the Code as well as a Final Report of the Working Group; these spell out, *inter alia*, that the purpose of the Code is to be a declaration of intent on behalf of all MPs. Although not aimed at being a legally binding instrument in itself, the Code is based on the assumption that all MPs are to follow it from the start of their assignment. That said, the Guide states that the regulatory framework surrounding the assignment as an MP are to be found elsewhere, in legislation, regulations, handbooks and practice. This approach is fully compatible with GRECO's reasoning in the Evaluation Report, that a code of ethics "is not meant to replace the existing legislation imposing obligations, but to complement and to clarify", ... "to contain and make more appropriate accessible and restrictions on their activity" and to provide "clear guidance on the prevention of conflicts of interest and related issues" (paragraph 46). That said, this instrument - although publicly available - has not yet been formally adopted. Consequently, this part of the recommendation can only be considered as partly implemented. Furthermore, the practical aspects relating to the implementation of this instrument (training and counselling) have not been ensured as yet. GRECO therefore urges the authorities to complete the process of adoption of the proposed Code of Conduct as soon as possible and to further its implementation, as intended by the current recommendation.
10. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

11. *GRECO recommended (i) that written (public) clarification of the meaning of the disqualification rules of the Riksdag Act and guidance on the interpretation of those rules be provided to members of parliament; and (ii) that a requirement of ad hoc disclosure be introduced when, in the course of parliamentary proceedings, a conflict between the private interests of individual members of parliament may emerge in relation to the matter under consideration.*
12. The authorities report that issues concerning conflicts of interest have been included in the Code of Conduct. The authorities also point out that the parliamentary Working Group, when drafting the Code, considered the conflict of interest provisions contained in the Riksdag Act appropriate to ensure the proper balance between, on the one hand, MPs' rights to express themselves in matters to be decided and, on the other hand, not to derive inappropriate benefits from their positions. They explain that, as a consequence, the provisions included in the Code

of Conduct provide a publicly available summary and some further explanations as to the existing regulations and practices described in the preparatory texts to the legislation and in the doctrine. A requirement of so called “*ad hoc* disclosures” in respect of conflicts of interests has not been introduced.

13. GRECO welcomes the written clarifications to the meaning of the Riksdag Act which have been developed in the Code, but takes the view that the first part of the recommendation is no more than partly complied with, as the Code of Conduct has not been officially legitimised or adopted. As far as the second part of the recommendation is concerned, GRECO notes that MPs have not been required to make *ad hoc* disclosures. Consequently, the situation in this respect remains the same now as it was at the time of adoption of the Evaluation Report, namely that such disclosures are possible; however, solely based on self-discipline by the MP concerned. It follows that the second part of the recommendation has not been addressed. Another matter – which is a positive step in itself – is that the parliamentary Working Group has suggested in the Guide to the Code that MPs, who do not wish to participate in considerations due to conflicts of interest, may have such a decision entered into the record of chamber or committee meetings.
14. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

15. *GRECO recommended that rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public; they should, in particular, determine what kinds of gifts and other advantages may be acceptable and define what conduct is expected of members of parliament who are given or offered such advantages.*
16. The authorities submit that the Code of Conduct and the Guide thereto, as referred to in paragraphs 8 and 9, has been provided with a part dedicated to gifts, more particularly that an MP who receives a gift is to report this to the Internal Services Department within two weeks of reception. However, the Code excludes gifts with little or no value from such reporting. Furthermore, the Guide to the Code makes clear that when a gift is directed at an MP – as a representative of the Riksdag – it belongs to the Riksdag. The Guide also elaborates on the distinction between official and private gifts and stresses the need for the MP to bear in mind the risk of the gift being considered as a bribe. The Code also contains a chapter on bribes as they are defined in the Penal Code to which reference is made in this context.
17. GRECO notes that the Code of Conduct and the Guide thereto provide important additional guidance to MPs in connection with gifts; e.g. these texts make it clear that gifts as a main rule are to be considered as belonging to the Riksdag and that such gifts are to be reported to the Riksdag administration, unless of insignificant value (souvenirs, pens etc). Furthermore, guidance is provided as to how to distinguish private gifts from those of an official character. Moreover, GRECO notes that the Guide refers to the interpretation of the bribery provisions contained in the Penal Code in respect of various forms of benefits. GRECO takes the view that, although no precise value limits, thresholds or the like have been established in respect of gifts and other advantages, the Code of Conduct and its complementary Guide provide important additional elements to guide MPs in gift situations. These documents are publicly accessible and would provide an appropriate response to the recommendation, had they been adequately legitimised through a formal adoption or the like. It follows that these commendable efforts still require formal endorsement.
18. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

19. *GRECO recommended that the existing regime of asset declarations be further developed, in particular (i) by including quantitative data of the financial and economic involvements of members of parliament as well as data on significant liabilities; and (ii) 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).*
20. The authorities state that this recommendation has been considered in its entirety by the parliamentary Working Group referred to above. As far as the first part of the recommendation is concerned, to include quantitative data in the asset declarations, it has been considered that such a move would constitute an unnecessary administrative burden on the register, while referring to the existing transparency of all income data in Sweden. However, as far as debts are concerned, the Working Group has proposed a change in the Act on registration of the commitments and financial interests of members of the Riksdag, in respect of debts exceeding "two price base amounts" (89 000 SEK or approx. EUR 9 300). Concerning the second part of the recommendation, the authorities again refer to the considerations of the Working Group as reflected in its Final Report, according to which the Group took the position that respect for individual privacy outweighs the public interest in respect of such transparency as far as spouses and dependent family members are concerned. No change to that end was therefore suggested by the Group.
21. GRECO wishes to stress that this recommendation consists of three distinct elements; to include quantitative data to the asset declarations; to introduce an obligation to report debts in respect of such declarations and; to consider widening of the scope of asset declaration also to cover spouses and dependent family members of the MP. GRECO regrets that quantitative data in respect of assets has not been considered necessary, but welcomes the Working Group's proposal to change the legislation in order to also make the declaration of liabilities over a certain value obligatory, as is the case for assets. Nevertheless, the formal procedure for drafting new legislation has not started as yet. This part of the recommendation has therefore not been implemented. Concerning the second part of the recommendation, GRECO also regrets the Swedish position not to include financial interests of spouses and dependent family members in the asset declarations for reasons of individual privacy, as such declarations would not necessarily need to be made public, as stated in the recommendation. Such a position also runs counter to the practice in a large number of member States. That said, this part of the recommendation has nevertheless been implemented as it has been duly considered.
22. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

23. *GRECO recommended that appropriate measures be taken to ensure supervision and enforcement of the existing and yet-to-be established rules on conflicts of interest, gifts and asset declarations by members of parliament*
24. The authorities report that the Riksdag is meant to be responsible for the Code of Conduct and for its implementation. A specific chapter of the Code "Upholding the Code" makes clear that the Speaker and the Deputy Speakers (the presiding officers) are to have such a function. An MP who considers that the Code has been violated may address one of the presiding officers, in writing or verbally. In such a case the presiding officers must take a position following an investigation. The

presiding officers may also *ex officio* initiate investigations if they learn about circumstances that may involve violations of the Code. Decisions to this end are to be taken by a majority of the presiding officers with the Speaker having a deciding vote if necessary. Under the heading "Sanctions", the Code of Conduct provides that the Speaker is to announce when an action has been found to be in violation of the Code and to provide details of the violation at a meeting of the Chamber, which is similar to current procedures concerning asset declaration violations.

25. GRECO welcomes the information provided. It is pleased that the Code of Conduct contains dedicated provisions for its supervision and enforcement, including sanctions in the form of "naming and shaming" when violations occur. In respect of asset declarations, this was already the case in the past. GRECO notes that these measures appear pertinent, considering that they are subject to a high degree of transparency and that - as a result - the political consequences may be significant for MPs who violate these rules. That said, GRECO also notes that the Code of Conduct has not been officially legitimised or adopted as yet.
26. GRECO concludes that recommendation v has been partly implemented.

Corruption prevention in respect of judges

Recommendation vi.

27. *GRECO recommended that appropriate measures be taken with a view to ensuring the independence, impartiality and integrity of lay judges, inter alia, by introducing specific background checks in the recruitment process and organising mandatory initial and follow-up training, including on questions of ethics, expected conduct, corruption prevention and conflicts of interest and related matters.*
28. The authorities submit that, in September 2014, legal amendments were made to the Code of Judicial Procedure (CJP) and the Administrative Courts Act (ACA) concerning lay judges. As a result, Chapter 4 article 6 CJP and article 20 ACA provide that it is compulsory upon all courts to check the criminal record of lay judges before they serve in court. The law also requires that lay judges may not be in a situation of bankruptcy, which has become an eligibility requirement (as also required in respect of permanent judges). Moreover, Chapter 4, article 8 CJP and article 21 ACA have been amended in that lay judges are to be dismissed if they are "unsuitable" to serve (as compared with "clearly unsuitable" in the past). The authorities also state that, as of January 2015, it has become mandatory for newly elected lay judges to attend initial training as well as follow-up training and the National Courts Administration has been instructed to carry out such training. The content of this training is to focus particularly on access to public information versus confidentiality, conflicts of interest and ethical aspects of being a lay judge. Finally, the authorities underline that the election of lay judges no longer coincides with the general elections, in order to stress the non-political nature of such assignments.
29. GRECO takes note of the information provided, which indicates that several measures have been taken in order to better ensure the independence, impartiality and integrity of lay judges; the background checking of candidates has been strengthened and it is, following legal amendments, easier to dismiss lay judges when they do not fulfil the basic requirements of such assignments. Moreover, the initial and follow-up training, to be delivered by the National Courts Administration - including topics such as ethical conduct and conflicts of interest etc. - have been made obligatory in respect of lay judges. This package of measures, including amended legislation and training etc. are clearly in line with the elements and intentions of the current recommendation.

30. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

31. *GRECO recommended that the recent documents on "Good judicial practice" be complemented by further measures, including dedicated training for all categories of judges, aimed at offering proper guidance on ethics, expected conduct, corruption prevention and conflicts of interest and related matters.*
32. The authorities indicate that the Courts Judicial Training Academy offers a series of training activities for judges including four courses under the heading "The Role of the Judges". These courses (A-D) address a wide range of issues concerning the position of the courts and the role of judges in society, ethics, conflicts of interest, expected conduct in general and in respect of the parties during court proceedings as well as towards citizens who come in contact with the courts. In particular, dedicated instructors have been chosen for these courses, for example, chairpersons of the Confederation of Swedish Judges etc. A large number of judges have already participated in these courses since their introduction. Further seminars concerning good judicial practice are also being developed jointly by the Courts Judicial Training Academy and the Confederation of Swedish Judges.
33. GRECO recalls that the document "Good judicial practice", which was adopted in 2011, following an inclusive process, was praised in the Evaluation Report as a significant step towards the provision of guidance of ethical questions to judges in Sweden (paragraph 113). GRECO's call for follow-up actions to these principles, *inter alia*, through regular training has now been adhered to by the Swedish authorities who have reported on a series of training sessions, available to all judges in Sweden, which build on the document "Good judicial practice". This training is performed by the Courts Judicial Training Academy in co-operation with the Confederation of Swedish Judges. Additional courses on the same themes are under preparation. GRECO welcomes the measures taken, which are in line with the intentions of the current recommendation.
34. GRECO concludes that recommendation vii has been implemented satisfactorily.

Corruption prevention in respect of prosecutors

Recommendation viii.

35. *GRECO recommended (i) that a set of clear ethical standards be made applicable to all prosecutors and easily accessible to the public; and (ii) that complementary measures, including dedicated training – aimed at offering proper guidance on ethics, expected conduct, corruption prevention and conflicts of interest and related matters – be made available to all prosecutors.*
36. The authorities report that, in June 2014, the Prosecutor General adopted ethical standards for public prosecutors in Sweden. These consist of eight principles covering the role of the prosecutor in the legal system as well as measures aiming at preventing corruption and linked phenomena within the prosecution service. The principles cover areas such as legality, objectivity, public access to official records, conflicts of interest, acceptance of gifts and advantages as well as personal conduct within and outside the public functions of a prosecutor. The ethical standards were developed over a period of two years and include various parts of the Prosecution Service. Before the adoption of the standards, all units of the organisation were given the opportunity to submit comments. In addition, it has been decided to hold an annual discussion on ethics involving all 39 prosecution offices in Sweden, under

the supervision of the Training Unit. As far as training is concerned, the authorities reiterate that all public prosecutors are obliged to complete a three year training programme, which also extends to ethics, conduct, conflicts of interest etc.

37. GRECO takes note of the information provided. It welcomes the adoption of the set of ethical standards for prosecutors which, following a thorough process was adopted and made public in June 2014. The eight principles cover the areas indicated in the current recommendation as well as other fundamental principles. The standards, available to GRECO, are fairly short and distinct and the need for proper implementation clearly requires follow-up activities, in particular, in the form of training possibilities. GRECO is therefore pleased that the mandatory training of all prosecutors covers areas relating to the content of the ethical standards. Moreover, GRECO would be interested to learn more about the annual events to discuss ethical matters, involving all 39 public prosecution offices in Sweden. Such a "forum" may be an opportunity to further develop the ethical standards which, as "living instruments", ought to evolve and be complemented over time.
38. GRECO concludes that recommendation viii has been implemented satisfactorily.

III. CONCLUSIONS

39. **In view of the foregoing, GRECO concludes that Sweden has implemented satisfactorily or dealt with in a satisfactory manner three of the eight recommendations contained in the Fourth Round Evaluation Report.** The remaining recommendations have been partly implemented.
40. More specifically, recommendations vi, vii and viii have been implemented satisfactorily and recommendations i-v have been partly implemented.
41. As far as members of parliament are concerned, it is to be noted that following the adoption of the Evaluation Report, a parliamentary working group was established to deal with the recommendations. The Working Group has thoroughly considered the bulk of concerns raised by GRECO in all five recommendations. As a result, the Working Group has drawn up a Code of Conduct for the Members of the Riksdag, accompanied by a Guide for its application. These two instruments, if adopted, would provide detailed guidance as they address many of the issues raised by GRECO under this theme, such as conflicts of interest, gifts and other advantages, asset declarations and supervision. That said, the Code, although already publicly available, has not yet been formally adopted by the Riksdag and some of the proposals made by the Working Group require legislative changes. Adversely, some parts of the recommendations have not been followed as intended, e.g. to require "ad hoc" disclosures by MPs when a conflict of interest arises in Parliament and to extend the obligation to declare assets in respect of spouses and dependent family members, which is regrettable. Despite these shortcomings, considerable progress has been made and the authorities are urged to pursue their efforts, in particular, to formally adopt the Code of Conduct and to ensure its proper implementation.
42. In respect of lay judges, a range of dedicated measures, including in legislation and training, have been carried out in order to strengthen their independence, impartiality and integrity. Furthermore, pertinent training has been established for professional judges in respect of ethical conduct and conflicts of interest and related matters under the auspices of the Courts Judicial Training Academy, in order to further the impact of the document "Good judicial practice".
43. As far as the Prosecution Service is concerned, ethical standards have been adopted for public prosecutors, following an inclusive drafting process, in which

prosecution offices from all over Sweden have been involved and measures have been taken for the implementation of these standards, in the form of staff training.

44. In view of the above, GRECO notes that considerable progress has been made in respect of all themes. However, in the present absence of final achievements in respect of a number of recommendations, further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. It would appear that substantial reforms are to be completed in due course concerning most elements of the pending recommendations. GRECO invites the Head of delegation of Sweden to submit additional information regarding the implementation of recommendations i-v by 30 April 2017.
45. Finally, GRECO invites the authorities of Sweden to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.