



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



Adoption: 3 December 2021

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## FOURTH EVALUATION ROUND

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

### SECOND *INTERIM* COMPLIANCE REPORT AUSTRIA

Adopted by GRECO at its 89th Plenary Meeting  
(Strasbourg, 29 November - 3 December 2021)

## **I. INTRODUCTION**

1. The Fourth Round Evaluation Report on Austria was adopted at GRECO's 73<sup>rd</sup> Plenary Meeting (21 October 2016) and made public on 13 February 2017, following authorisation by Austria ([GrecoEval4\(2016\)1](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. In the Compliance Report adopted by GRECO at its 81st Plenary Meeting (7 December 2018) and made public on 17 July 2019, following authorisation by Austria ([GrecoRC4\(2018\)15](#)), it was concluded that only one of the 19 recommendations contained in the Evaluation Report had been dealt with in a satisfactory manner, five recommendations had been partly implemented and 13 had not been implemented. GRECO concluded that the very low level of compliance with the recommendations was "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.
3. In the Interim Compliance Report adopted by GRECO at its 85<sup>th</sup> plenary meeting (25 September 2020) and made public on 1 March 2021, following authorisation by Austria, GRECO concluded that the low level of compliance with the recommendations remained "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure and asked the Head of delegation of Austria to provide a report on the progress in the implementation of the outstanding recommendations at the latest by 30 September 2021. This report was received as requested and served as a basis for the present Second Interim Compliance Report.
4. This Second Interim Compliance Report evaluates the progress made in implementing the outstanding recommendations (recommendations i to xii, xiv, xvi to xix) since the previous Interim Report and provides an overall appraisal of the level of Austria's compliance with GRECO recommendations.
5. GRECO selected the Russian Federation (on members of parliament) and Liechtenstein (on judges and prosecutors) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Aslan YUSUFOV, on behalf of the Russian Federation, and Helen LOREZ, on behalf of Liechtenstein. They were assisted by GRECO's Secretariat in drawing up this Second Interim Compliance Report.

## **II. ANALYSIS**

6. It is recalled that GRECO addressed 19 recommendations to Austria in its Evaluation Report. In the Interim Compliance Report GRECO concluded that recommendations xiii and xv had been implemented satisfactorily. Recommendations i, ii, ix, x, xi, xiv, xvii, xviii and xix had been partly implemented and recommendations iii to viii, xii and xvi had not been implemented. Compliance with the 17 pending recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

7. At the previous stages of the compliance procedure the authorities reported that a parliamentary working group had been established to advance the implementation of GRECO recommendations related to members of parliament (MPs) ("Parliamentary working group"). The authorities now indicate that reaching an agreement within that group was crucial for attaining the progress reported below.

### **Recommendation i.**

8. *GRECO recommended to ensure through appropriate, predictable and reliable rules that legislative drafts emanating both from government and from parliament are processed with an adequate level of transparency and consultation including appropriate timelines allowing for the latter to be effective.*
9. It is recalled that this recommendation was partly implemented in the Compliance Report and the Interim Compliance Report. GRECO noted the continued use of the relatively recent practice of extended consultation procedures and comparative texts. However, there were still no clear rules adopted requiring public consultations on drafts emanating from parliament and government or on establishing appropriate timelines to ensure that such consultations are effective.
10. The Austrian authorities now report that the Rules of Procedure of the National Council have been amended to include a provision establishing a parliamentary consultation procedure (Section 23b). As of 1 August 2021, all bills introduced in the National Council (i.e. government bills, motions by MPs and committees proposing the adoption of laws, bills introduced by the Federal Council, petitions and popular initiatives) must be open to public consultation via the parliamentary website. Opinions can be submitted from the time a legislative proposal enters the National Council until the end of the legislative process in the Federal Council. Opinions received are to be published, except those from private individuals who are to consent to their publication. The authorities state that the carrying out of public consultations on a broad basis has been facilitated by the advanced IT-tools currently available.
11. GRECO notes the establishment of a public consultation procedure for all types of bills discussed by parliament. It is satisfied that public consultations and appropriate timelines for such purposes have now been legally guaranteed for both government initiatives and parliamentary drafts, as is requested. GRECO also expects that various internal parliamentary guidelines, which currently envisage a shorter timeline<sup>1</sup>, will be aligned with the new rules.
12. GRECO concludes that recommendation i has been implemented satisfactorily.

### **Recommendations ii.**

13. *GRECO recommended: (i) that a code of conduct (or ethics) be developed for members of parliament and communicated to the public; ii) ensuring there is a mechanism both to promote the code and to provide advice and counselling to MPs, but also to enforce such standards where necessary.*
14. GRECO recalls that this recommendation was partly implemented in the Interim Compliance Report (introduction of training, setting up of confidential counselling, elaboration of a draft code of conduct by the Parliamentary Administration).
15. The Austrian authorities now report that, on 14 January 2021, a new code of conduct for members of the National Council and of the Federal Council was approved by the Presidents' Conference, the advisory body within the National Council. The Code was distributed to MPs and published on the parliamentary website ([Volltextsuche | Parlament Österreich](#)).
16. GRECO notes the development, distribution and publication of the new code of conduct for members of both chambers of parliament. In GRECO's view, this

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<sup>1</sup> GRECO refers, in particular, to "internal parliamentary guidelines" mentioned in paragraph 19 of the Evaluation Report, which were said to envisage a period of six weeks for consultation and discussion with the public.

document represents merely a catalogue of legal provisions<sup>2</sup> that were applicable - jointly or separately - to each category of MPs already at the stage of the evaluation. GRECO accepts that bringing together the various rules for MPs has been a valuable step in the right direction. However, interpretation, supplementary guidance or concrete illustrations, as suggested by the Evaluation Report, are not included. Mechanisms to promote the code, to provide advice and counselling as well as to ensure its enforcement are not foreseen.

17. GRECO concludes that recommendation ii remains partly implemented.

**Recommendation iii.**

18. *GRECO recommended: (i) to clarify the implications for members of parliament of the current system of declarations of income and side activities when it comes to conflicts of interest not necessarily revealed by these declarations; and in that context (ii) to introduce a requirement of ad hoc disclosure when a conflict between specific private interests of individual MPs may emerge in relation to a matter under consideration in parliamentary proceedings – in the plenary or its committees – or in other work related to their mandate.*
19. It is recalled that this recommendation was not implemented in the Interim Compliance Report due to the lack of measures taken.
20. The Austrian authorities now report that the Rules of Procedure of the National Council and of the Federal Council have been amended to include provisions concerning matters of personal interest for members of the National Council in the Immunities Committee and in the Incompatibility Committee (Section 32.5) and members of the Federal Council in the Incompatibilities Committee (Section 13.4.a). Specifically, if members of either Council are personally concerned by a matter dealt with by one of these committees<sup>3</sup>, they are now to be replaced by a substitute member or another MP from the same parliamentary/political group or to notify such personal interest pursuant to the Incompatibility and Transparency Act. The authorities indicate that the replacement request is to be submitted in writing to the chair of the committee and that, in practice, the reason for the replacement is not disclosed.
21. With respect to the new code of conduct (cf. recommendation ii), the authorities clarify that the mission statement under the code establishes a general duty for MPs to disclose personal interests. However, there is no specific procedure or body to collect such declarations. MPs are free to contact the Parliamentary Administration's Compliance Department responsible for compliance with the conflicts of interest rules. Only violations of legal regulations (i.e. the Incompatibility and Transparency Act) can constitute a breach of the code.
22. GRECO notes the establishment of recusal rules in the context of work of the supervisory committees in the National Council and in the Federal Council. Although the adoption of such rules is a welcome development relevant for part (ii) of the recommendation, the rules themselves have a limited effect and need to be broadened to cover MPs who are not members of the aforementioned committees, as well as persons close to them. Moreover, such rules are to apply to other parliamentary activities, including the management of parliamentary structures and resources, as indicated in the Evaluation Report<sup>4</sup>. As concerns the general duty for MPs to disclose conflicts of interest included in the mission statement under the new

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<sup>2</sup> For example, from the procedural rules, the Criminal Code, the Incompatibility and Transparency Act, the Lobbying and Interest Representation Transparency Act, the Political Parties Act, etc.

<sup>3</sup> Incompatibility Committees within both chambers exercise supervision of income declarations filed by MPs.

<sup>4</sup> Cf. paragraph 27 of the Evaluation Report.

code of ethics, it is only of an aspirational nature and lacks proper legal force as well as implementation and supervision mechanisms. GRECO concludes that this part of the recommendation has now been partly complied with. Regarding part (i) of the recommendation, in the absence of new information, GRECO concludes that it remains not implemented.

23. GRECO concludes that recommendation iii has been partly implemented.

**Recommendation iv.**

24. *GRECO recommended that internal rules and guidance be provided within parliament on the acceptance, valuation and disclosure of gifts, hospitality and other advantages, including external sources of support provided to parliamentarians, and that compliance by parliamentarians be properly monitored, consistent with the rules on political financing.*
25. It is recalled that this recommendation was not implemented in the Interim Compliance Report due to the lack of measures taken.
26. The Austrian authorities now report that, since 2018, the Parliamentary Administration's Compliance Department has regularly held integrity-related workshops for MPs and leaders of parliamentary groups. To date, 12 such workshops have been organised and attended by a total of 83 MPs. In 2020/21, workshops focused on incompatibility and transparency within the meaning of the Incompatibility and Transparency Act, and hospitality matters. Additionally, since its establishment in April 2019, the counselling unit under the same Department has received 28 requests from MPs and leaders of parliamentary groups for an opinion on compliance issues.
27. The authorities indicate that structured findings from both types of activities served as a basis for submitting proposals to the Secretary General of the Austrian Parliament and leaders of parliamentary groups regarding the potential further development of compliance standards for MPs. Currently, draft internal guidelines for MPs on how to deal with gifts and other advantages are being finalised by the aforementioned Compliance Department and their adoption is foreseen for the end of 2021. The guidelines will not establish new rules but only clarify the anti-corruption provisions of the Criminal Code. According to the authorities, there is agreement amongst parliamentary groups that any grey areas with respect to gifts and other advantages, except those covered by the criminal law, are to be clarified on a case-by-case basis by means of compliance counselling, together with the MP concerned.
28. GRECO notes the ongoing development of internal guidelines to clarify the anti-corruption provisions of the Criminal Code. However, no specific rules on gifts, hospitalities and other advantages, including external support, as well as measures to ensure proper compliance with such rules are in the making. For this reason, GRECO cannot consider this recommendation even partly implemented.
29. GRECO concludes that recommendation iv remains not implemented.

**Recommendation v.**

30. *GRECO recommended that the legal framework applicable to lobbying be reviewed so as to (i) improve the transparency of such activities (also for the public) and the consistency of requirements including the legal prohibition for parliamentarians themselves to act as lobbyists, and to ensure proper supervision of these declaratory requirements and restrictions (ii) to provide for rules on how members of parliament*

*have contacts with lobbyists and other persons seeking to influence parliamentary work.*

31. It is recalled that this recommendation was not implemented in the Interim Compliance Report due to the lack of measures taken.
32. The Austrian authorities now report that, in December 2020, a working group tasked with evaluating the Austrian Lobbying and Advocacy Transparency Act has been established by the Ministry of Justice, with the Parliamentary Administration participating as an active observer. The "Parliamentary working group" has decided to wait until the results of this other working group are available before discussing if and to what extent the rules on lobbying activities for MPs are to be aligned with any new provisions regarding members of the federal government.
33. GRECO notes the absence of steps taken to implement this recommendation which addresses interactions between MPs and lobbyists as well as the need for more transparency in this area.
34. GRECO concludes that recommendation v remains not implemented.

#### **Recommendation vi.**

35. *GRECO recommended: (i) that the existing regime of declarations be reviewed in order to include consistent and meaningful information on assets, debts and liabilities, more precise information on income (ii) that consideration be given to 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).*
36. It is recalled that this recommendation was not implemented in the Interim Compliance Report due to the lack of measures taken.
37. The Austrian authorities now report that the "Parliamentary working group" reviewed the existing declaration requirements and found them to be adequate. In particular, widening the material scope of declarations to include debts and/or widening the personal scope to include information on spouses and dependent family members were regarded as excessive and not useful. However, following an agreement within the group, the income categories<sup>5</sup> determined by the Incompatibility and Transparency Act have been adjusted to the rate of inflation (Section 6.5) and are currently as follows: from €1 to €1 150 (category 1); from €1 151 to €4 000 (category 2); from €4 000 to €8 000 (category 3); from €8 001 to €12 000 (category 4); and more than €12 000 (category 5).
38. GRECO notes regarding part (i) of the recommendation that the current disclosure system has still not been reformed and that the disclosure of sufficiently detailed figures on the assets, liabilities and debts of MPs is still not provided for. More precise information on income is also not to be given. GRECO stated in the Evaluation Report that, in the absence of the principle of declaration of all sources of income, the mere indication of the category of monthly average income generated by the functions mentioned in the declaration is not a satisfactory solution<sup>6</sup>. In view of this, GRECO concludes that this part of the recommendation remains not implemented.

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<sup>5</sup> The income from the declared activity must be reported annually by stating the corresponding income category based on the total average monthly gross emoluments in the previous calendar year – cf. paragraph 51 of the Fourth Round Evaluation Report on Austria.

<sup>6</sup> Paragraph 55 of the Evaluation Report.

39. Concerning part (ii) of the recommendation, it is noted that a parliamentary working group has rejected the idea to include information on spouses and dependent family members in the declarations. In GRECO's view, although some considerations have taken place, this is not sufficient as the considerations were limited to a working group. To comply with this part of the recommendation considerations of a more formal character are required (e.g. as regards appropriate authority, extent of examination, proper documentation of the decision, its availability to the public, etc.) Pending such further developments, GRECO concludes that this part of the recommendation has only been partly complied with.
40. GRECO concludes that recommendation vi has been partly implemented.

**Recommendation vii.**

41. *GRECO recommended that: (i) that the future declarations of income, assets and interests be monitored by a body provided with the mandate, the legal and other means, as well as the level of specialisation and independence needed to perform this function in an effective, transparent and proactive manner and (ii) that such a body be able to propose further legislative changes as may be necessary, and to provide guidance in this area.*
42. This recommendation was assessed as not implemented in the Interim Compliance Report due to the lack of measures taken.
43. The Austrian authorities now report that the Incompatibility and Transparency Act has been supplemented by a new provision<sup>7</sup> (Section 7.3), authorising the Incompatibility Committees of the National Council and of the Federal Council to demand that members of both Councils submit additional information regarding their professional activities, assets and shareholdings in companies, executive positions and employment relationships with a provincial corporate body "to the extent to which this is subject to a reporting duty". Such information is to be submitted within a reasonable deadline with the effect of suspending the deadline for a decision to be taken in respect of the declaration concerned.
44. GRECO notes the inclusion of a provision in the Incompatibility and Transparency Act (Section on incompatibilities) which has attributed power to the supervisory committees of both chambers of parliament to proactively request additional information from MPs in the context of them exercising ancillary activities. In GRECO's view this is a minor step considering the many weaknesses highlighted in the evaluation report<sup>8</sup>. The scope of oversight by the committees remains limited and can only be exercised in the context of them checking MPs' incompatibilities. Proper verification powers, including access to state registers and the possibility to systematically check variations of MPs' wealth (and not just the validity of income) have not been provided for. There is no evidence of formal decisions being taken by either committee under the old or new rules and the committees' reports have still not been made available to the public<sup>9</sup>. Overall, the reported action falls short of meeting the far-reaching requirements of this recommendation to ensure that expected future declarations of income, assets and interests are monitored by a properly mandated, specialised and sufficiently resourced body (part i of the

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<sup>7</sup> It entered into force on 14 April 2021.

<sup>8</sup> At the time of the evaluation, the two committees had no special resources at their disposal, apart from the assistance provided by the Parliamentary Administration. Their supervisory responsibilities were not consistent or clearly spelt out. Parliamentary representatives considered that it was not the role of the committees to conduct checks and investigations, even if declarations contained obvious erroneous information e.g. on the level of income.

<sup>9</sup>The committees' reports are only sent to the President and MPs of each chamber.

recommendation). As for vesting legislative and guiding powers in such a body, relevant information has not been provided (part ii of the recommendation).

45. GRECO concludes that recommendation vii remains not implemented.

**Recommendation viii.**

46. *GRECO recommended that infringements of the main present and future rules in respect of integrity of parliamentarians, including those concerning the declaration system under the Act on incompatibilities and transparency, carry adequate sanctions and that the public be informed about their application.*
47. It is recalled that this recommendation was assessed as not implemented in the Interim Compliance Report due to the lack of measures taken.
48. The Austrian authorities now report that the "Parliamentary working group" discussed the possibility of introducing additional sanctions but considered the existing ones to be sufficient. It therefore refrained from taking any action.
49. GRECO notes the lack of progress and concludes that recommendation viii remains not implemented.

*Corruption prevention in respect of judges*

**Recommendation x.**

50. *GRECO recommended that the recruitment requirements be increased and formalised for judges when they are to become candidate-judges (Richteramtsanwärter) and administrative court judges, and that this includes proper integrity assessments as well as objective and measurable criteria on professional qualifications to be applied by the independent selection panels involved.*
51. It is recalled that this recommendation was assessed as partly implemented in the Interim Compliance Report. GRECO noted the formalisation of recruitment requirements and procedures for ordinary judges (mandatory verification of recruitment criteria, work practice, performance during court practice, integrity assessment, screening of criminal record, etc.). However, decisions to appoint still remained in the hands of High Regional Court presidents and the procedure for appointing administrative judges had not been reformed.
52. The authorities now report that the Ministry of Justice has prepared draft amendments to the Service Act for Judges and Prosecutors revising the appointment procedure for candidate-judges for the ordinary courts. As a result, presidents of the Higher Regional Courts are now to participate in hearings with applicants personally or to be represented by an assigned judge. Representatives of senior prosecutor's offices, the Association of Austrian Judges and representatives of the public service union are to participate too (which is already done in practice). The decision-making power to appoint is to be transferred from the presidents of Higher Regional Courts to "External Senates"<sup>10</sup> under each court. Moreover, "Personnel Senates" established under each court, including the Supreme Court, are to have certain appointment responsibilities. The draft amendments remain to be adopted by the Parliament, the related hearing is envisaged in autumn 2021.

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<sup>10</sup> An "External Senate" will consist of the President of a High Regional Court, the most senior Vice President (ex officio members) and three elected members of the judiciary.



53. GRECO notes that the current practice of involving other stakeholders in hearings with candidate-judges for the ordinary courts is to be formalised in law. Moreover, the decision-making power regarding appointments will be transferred from Higher Regional Court presidents to so-called "external senates", composed of a majority of elected members of the judiciary. GRECO would need to see all the related provisions of the draft legislation (i.e. those defining the functions and composition of a "personnel senate") and know its current status to determine the conformity of the proposed legal changes with the recommendation. Moreover, GRECO notes the absence of information regarding the appointment of administrative judges.
54. GRECO concludes that recommendation x remains partly implemented.

**Recommendations ix, xi, xii, xiv and xvi.**

55. *GRECO recommended that i) adequate legislative, institutional and organisational measures be taken so that the judges of federal and regional administrative courts be subject to appropriate and harmonised safeguards and rules as regards their independence, conditions of service and remuneration, impartiality, conduct (including on conflicts of interest, gifts and post-employment activities), supervision and sanctions; ii) the Länder be invited to support those improvements by making the necessary changes which fall within their competence (recommendation ix).*
56. *GRECO recommended that staff panels be involved more broadly in the selection and career evolution of ordinary and administrative court judges, including the presidents and deputy-presidents, and that the proposals of the panels become binding for the executive body making appointments (recommendation xi).*
57. *GRECO recommended that a system of periodic appraisals be introduced for judges, including the presidents of the courts, and that the results of such appraisals be used in particular for decisions on career progression (recommendation xii).*
58. *GRECO recommended that: (i) to ensure that all relevant categories of judges, including lay judges, are bound by a Code of conduct accompanied by, or complemented with appropriate guidance and (ii) that a mechanism is in place to provide confidential counselling and to promote the implementation of the rules of conduct in daily work (recommendation xiv).*
59. *GRECO recommended that the persons responsible for the implementation and supervision of the various obligations laid upon judges - notably on professional secrecy, gifts, accessory activities and management of conflicts of interest - be properly identified and known to all, and that they be required to introduce the proper procedures needed for these obligations to become effective (recommendation xvi).*
60. It is recalled that recommendation ix was partly implemented in the Interim Compliance Report. GRECO noted regarding the pending part (i) of the recommendation that, apart from the adoption of the Compliance Guidelines to be followed by all judges, no legislative, institutional or organisational measures had been taken to harmonise the safeguards and rules in respect of federal and regional administrative court judges. The second part of the recommendation was assessed as implemented satisfactorily in the Compliance Report.
61. Recommendation xi was not implemented in the Interim Compliance Report. GRECO noted that the process for adopting amendments to the Service Act for Judges and Prosecutors, already in preparation at the time of the Compliance Report, had not advanced beyond a first draft law.

62. Recommendation xii was assessed as not implemented in the Interim Compliance Report due to the lack of measures taken.
63. Recommendation xiv was assessed as partly implemented in the Interim Compliance Report. GRECO welcomed the adoption and publication on the Internet of the Compliance Guidelines which provide an extensive set of rules of conduct applicable to judges. The guidelines are also addressed to all other persons working in courts, prosecutor's offices and the prison system. However, no new information had been provided about the practical modalities of the functioning of the counselling available to judges on matters of ethics/conduct. The confidentiality of such counselling was also not ensured.
64. Recommendation xvi was assessed as not implemented in the Interim Compliance Report. Who carried out in practice the supervision (under the responsibility of court presidents) over the various obligations placed on judges had still not been defined. Measures to introduce proper procedures needed for the compliance system to become effective appeared to be underway, notably through the "Compliance Management System", which were at the planning stage.
65. The Austrian authorities do not report any new information regarding the above recommendations.
66. GRECO notes the absence of progress and concludes that recommendation ix and xiv remain partly implemented and recommendations xi, xii and xvi remain not implemented.

*Corruption prevention in respect of prosecutors*

**Recommendations xvii and xviii.**

67. *GRECO recommended that the statute of prosecutors be further approximated with the one for judges recommended in the present report, particularly with regard to decisions on appointments and career changes including for the highest functions (the role of the executive should be limited to the formal appointment and should not include the choice of the candidate), as well as with regard to periodic appraisals for all prosecutors and the incompatibility of their function with a political function in the executive or legislature (recommendation xvii).*
68. *GRECO recommended that (i) that all prosecutors are bound by a code of conduct accompanied by, or complemented with, appropriate guidance and (ii) that a system be put in place to provide confidential counselling and to support the implementation of the code in daily work (recommendation xviii).*
69. It is recalled that recommendation xvii was assessed as partly implemented in the Interim Compliance Report. GRECO welcomed that the issue of the incompatibility of the function of a prosecutor with that of an executive or legislative position had been dealt with in a satisfactory manner<sup>11</sup>. However, it regretted that the remaining necessary legal and practical measures to implement this recommendation fully had not yet been taken.
70. Recommendation xviii was partly implemented in the Interim Compliance Report. GRECO noted again with satisfaction the adoption of the Compliance Guidelines for the judiciary which is applicable also to prosecutors. The intention to designate Compliance Officers in the respective service authorities of regional prosecution offices was also encouraging.

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<sup>11</sup> Cf. also recommendation xv which was implemented satisfactorily in the Interim Compliance Report.

71. The Austrian authorities do not report any new information regarding these recommendations.
72. GRECO notes the absence of progress and concludes that recommendations xvii and xviii remain partly implemented.

*Corruption prevention regarding judges and prosecutors*

**Recommendation xix.**

73. *GRECO recommended that an annual programme be put in place for the in-service training of judges and prosecutors, including administrative judges and lay judges, which would include integrity-focused elements concerning the rights and obligations of these professionals.*
74. It is recalled that this recommendation was assessed as partly implemented in the Interim Compliance Report. GRECO took note of the training sessions delivered and various planned activities.
75. The Austrian authorities now report on the launch of a mandatory e-learning programme "Compliance" in February 2021, which forms part of a comprehensive Compliance Management System. Addressed to the whole of the judiciary (judges, prosecutors, court staff), it consists of eight modules covering such core conflicts of interest issues as the acceptance of gifts, invitations and hospitality, sponsoring, side employment and impartiality and is linked to the Compliance Guidelines mentioned above (cf. recommendation xiv and xviii). As of 9 November 2021, the "Compliance" programme had been completed by 1 929 persons (judges, prosecutors and other court staff).
76. In addition, in March 2021, the Federal Administrative Court launched a monthly one-hour online course to deepen its members' knowledge of compliance issues in accordance with their individual schedule. So far, 79 persons have successfully completed this training. The authorities indicate that the use of both training tools has been regularly monitored or will be evaluated towards a general roll out and that another e-learning tool on data security issues is in the making.
77. The authorities also inform that, as of November 2021, a network of compliance officers, comprising judges, prosecutors and civil servants from all levels of the judiciary will become operational. They are to act as single contact points for compliance related issues. The officers will undergo special training and are expected to contribute to building awareness of compliance issues at peer level.
78. Furthermore, as of January 2022, a protected communication platform will be put in place which will serve both as an information tool on compliance, and as a tool to report corruption anonymously.
79. GRECO takes note of the steps taken and planned to comply with this recommendation. It welcomes the introduction of the new training programmes for judges and prosecutors, that they are built around the recently adopted Compliance Guidelines which contain a set of comprehensive standards for judges and prosecutors dealing with corruption prevention, conflicts of interest and other integrity matters. The training is operational since early 2021. However, these e-learning programmes are not yet available to lay judges<sup>12</sup>.

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<sup>12</sup> In Austria, lay judges sit alongside professional judges in criminal proceedings concerning cases carrying a maximum punishment of more than five years, as well as political crimes. Expert lay judges are also used in labour, social and commercial law disputes.

80. GRECO concludes that recommendation xix has been partly implemented.

### **III. CONCLUSIONS**

81. **In view of the foregoing, GRECO concludes that Austria has now implemented satisfactorily or dealt with in a satisfactory manner three of the nineteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, nine have been partly implemented and seven have not been implemented.
82. More specifically, recommendation i, xiii and xv have been dealt with in a satisfactory manner, recommendations ii, iii, vi, ix, x, xiv, xvii, xviii and xix have been partly implemented and recommendations iv, v, vii, viii, xi, xii and xvi have not been implemented.
83. With respect to members of parliament, the progress is mixed. A public consultation procedure has been introduced for all types of bills discussed by Parliament and a new code of conduct for members of the National Council and of the Federal Council has been adopted. However, interpretation, supplementary guidance or concrete illustrations are not included in the code. Mechanisms to promote it, to provide advice and counselling as well as to ensure enforcement are not foreseen. The new recusal rules only apply in the context of the work of supervisory committees, which means they have a limited effect and need to be broadened to cover the rest of parliamentary activities. The rules on how MPs interact with lobbyists have not been developed and the current disclosure system has not been reformed in line with GRECO's standards.
84. As far as judges and prosecutors are concerned, progress has been minimal. That said, online programmes for in-service training of judges and prosecutors have been launched and the attendance levels have been high. Additionally, the Service Act for Judges and Prosecutors is being amended to revise the appointment procedure for candidate-judges to the ordinary courts. The exact scope and status of these amendments however remain to be seen.
85. In light of the foregoing, GRECO notes that the current level of compliance with the recommendations is no longer "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
86. In application of paragraph 8.2 of Article 31 of the Rules of Procedure, GRECO asks the head of the Austrian delegation to provide a report on the measures taken to implement the outstanding recommendations (i.e. recommendations ii-xii, xiv, xvi-xviii) by 31 December 2022 at the latest.
87. Finally, GRECO invites the authorities of Austria to authorise, as soon as possible, the publication of this report, to translate it into the national language and to make the translation public.