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Groupe d'États contre la corruption

COUNCIL OF EUROPE



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FOURTH EVALUATION ROUND

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

INTERIM COMPLIANCE REPORT

DENMARK

Adopted by GRECO at its 84th Plenary meeting
(Strasbourg, 2-6 December 2019)

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I. INTRODUCTION

1. This Interim Compliance Report assesses the measures taken by the authorities of Denmark to implement the recommendations issued in the Fourth Round Evaluation Report on Denmark (see paragraph 2). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Denmark was adopted at GRECO's 63rd Plenary meeting (28 March 2014) and made public on 16 April 2014, following authorisation by Denmark ([Greco Eval IV Rep \(2013\) 6E](#)).
3. The [Fourth Round Compliance Report](#) was adopted by GRECO at its 71st Plenary meeting (18 March 2016) and made public on 15 April 2016, following the authorisation by the Danish authorities.
4. The [Second Compliance Report](#) was adopted by GRECO at its 80th Plenary meeting (22 June 2018) and made public on 12 September 2018, following the authorisation by the Danish authorities. GRECO concluded in this Report that only one recommendation had been implemented satisfactorily, four had been implemented partly and one had not been dealt with. GRECO considered that the low level of compliance was "globally unsatisfactorily" in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members not found to be compliant with the recommendations contained in the mutual evaluation report and asked the Head of the Danish delegation to provide a report on the progress made by 30 June 2019, a deadline that was exceptionally extended to 31 October 2019.
5. On 7 November 2019, the authorities of Denmark submitted a Situation Report on further measures taken to implement the pending recommendations. This information served as the basis for the current Interim Compliance Report.
6. GRECO selected the United Kingdom and the Russian Federation to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr David MEYER, on behalf of the United Kingdom and Mr Aslan YUSUFOV, on behalf of the Russian Federation. They were assisted by GRECO's Secretariat in drawing up the Interim Compliance Report.

II. ANALYSIS

7. It is recalled that GRECO addressed six recommendations to Denmark in its Evaluation Report. In the Compliance Report, GRECO concluded that only one had been implemented satisfactorily (recommendation vi), whereas four had been partly implemented (recommendations i, iii, iv and v) and one (recommendation ii) had not been implemented. The situation remained the same in the Second Compliance Report. Compliance with the pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendation i.

8. *GRECO recommended (i) that a code of conduct for members of parliament – including, inter alia, guidance on the prevention of conflicts of interest, on questions concerning gifts and other advantages and on how to deal with third parties seeking to obtain undue influence on MPs' work – 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.*

9. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO noted that the outgoing Speaker had, in 2014, addressed issues highlighted in the recommendation in the form of a letter to all MPs, in order to draw their attention to ethical conduct and to the responsibility for upholding public trust in Parliament. While falling short of the recommendation, GRECO acknowledged that principles by which all MPs should abide were mentioned in the letter of the Speaker as an initial measure, it was not considered a code of conduct, nor were any other measures such as training and counselling in place.
10. In the Second Compliance Report the authorities maintained their position that a letter such as the one that was sent by the former Speaker on behalf of the former Presidium of the Danish Parliament, ahead of the 2015 elections, was an appropriate format for such a document in the context of the political system of Denmark. The then Presidium of Parliament would therefore consider ahead of the next parliamentary elections, whether a similar letter to members elected at that time could advantageously be accompanied by examples without detracting from the overall spirit of such a letter. The authorities added that they intended to initiate a discussion on the content of a similar letter in the Standing Orders Committee (which includes representatives of all parties and all party group chairpersons) as well as within the Presidium itself and would ensure that any similar letter to members elected in the next election were to be made accessible to the public. It was also stated that better use of party group chairpersons should be made for counselling reasons.
11. In the Second Compliance Report, GRECO welcomed that in the future such a letter was to be based on a more inclusive and broader debate in Parliament, in the Standing Orders Committee, where all political groups are represented, as well as in the Presidium itself. GRECO found that the letter by the former Speaker, referred to in the Compliance Report, was a good initiative, but it considered it necessary that such a document obtains recognition and authority over time, regardless of elections. While the first part remained partly implemented (the letter), nothing new had been reported in respect of the second part of the recommendation and it remained partly implemented.
12. The Danish authorities now report that the former Speaker of the Danish Parliament has sent a letter addressed to elected members of Parliament shortly after the elections on 5 June 2019, see Appendix). The content of the letter is similar to the one sent by her predecessor at the time of the elections in 2015. The authorities add that it is currently considered whether a similar letter is also to be sent to party group chair persons.
13. GRECO takes note of the information provided. It can only conclude that yet another letter has been sent to members of Parliament by the previous Speaker. GRECO has already stated its reasons why such a letter is not to be considered a code of ethics. Nothing concrete has been reported in respect of the second part of the recommendation.
14. GRECO concludes that recommendation I remains partly implemented.

Recommendation ii.

15. *GRECO recommended that a requirement of ad hoc disclosure be introduced when a conflict between the private interests of individual members of parliament may emerge in relation to a matter under consideration in parliamentary proceedings.*

16. It is recalled that this recommendation was not implemented in the previous compliance reports. The Danish authorities were of the opinion that such a requirement could at the most take the form of an unenforceable encouragement to Members of Parliament to declare any private interests in particular decisions and to consider not participating in a decision if doing so would appear improper. The authorities could not see how, within the limits of the Danish Constitution, a requirement of ad hoc disclosure could be enforced in any way. GRECO welcomed the encouragement given in the Speaker's letter to MPs to either abstain or declare any interest that they or their relatives or associates held, which it thought might prevent them from acting in a given matter under consideration by parliament. However, the letter did not bring any change to the voluntary regime that was analysed in the Evaluation Report.
17. The authorities of Denmark do not report anything new in respect of this recommendation.
18. GRECO concludes that recommendation ii remains not implemented.

Recommendation iii.

19. *GRECO recommended (i) that regular public registration of occupations and financial interests by members of parliament be made mandatory; (ii) that the existing system be further developed, in particular, by including quantitative data on the occupations and financial interests of members of parliament as well as data on significant liabilities; and (iii) 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).*
20. GRECO recalls that this recommendation was partly implemented in the previous compliance reports. The first part of the recommendation had been complied with, as the registration of occupations and financial interests had been made compulsory for MPs. The second part of the recommendation was not implemented as the registration system had not been further developed. Also the third part of the recommendation was not implemented as the authorities had not provided sufficient information suggesting that this part had been duly considered.
21. The authorities do not report anything new in respect of this recommendation.
22. GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv.

23. *GRECO recommended that appropriate measures be taken to ensure supervision and enforcement of i) the rules on registration of the occupations and financial interests by members of parliament and ii) standards of conduct applicable to them, where necessary.*
24. It is recalled that the current recommendation was partly implemented in the previous compliance reports. The first part had been implemented satisfactorily through the publication on the Parliament's website of the list of MPs that had not registered (regularly updated by the Legal Services Office). This "naming and shaming" measure appeared pertinent, given that it was subject to a high degree of transparency. However, the second part of the recommendation was not implemented; the Presidium of Parliament had not seen fit to take any initiatives towards a formal mechanism with regard to compliance with the principles of ethics contained in the letter of the Speaker (as referred to above).

25. The authorities do not report anything new in respect of this recommendation.
26. GRECO concludes that recommendation iv remains partly implemented.

Corruption prevention in respect of judges

Recommendation v.

27. *GRECO recommended i) that a set of clear ethical standards/code of professional conduct – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues – be made applicable to all judges and be made easily accessible to the public; and ii) that it be complemented by practical measures for its implementation, including dedicated training for professional judges, lay judges and expert judges.*
28. It is recalled that this recommendation was partly implemented in the previous compliance reports. The first part of the recommendation was partly met as a code of ethics had been established; however, it had not been accompanied by explanatory comments and practical guidance, as required. The second part of the recommendation had been met by the provision of dedicated training provided to judges.
29. The authorities now report that the Danish Court Administration has had further deliberations with the Association of Danish Judges, which adopted the Ethical Principles for Judges in 2014. Following these deliberations, the Danish Association of Judges has now also adopted a set of interpretative explanatory comments to the Principles, as required by the recommendation. The authorities add that the Ethical Principles are continuously brought up for discussion and revision if needed.
30. GRECO welcomes again the adoption of the Ethical Principles for Judges, which have now been complemented by interpretative comments and examples. GRECO has already accepted the very short and succinct format of the Principles. It notes that the comments follow a similar pattern of being short and simple. It also notes that reportedly the Principles are to be subject to continuous discussions and revisions and understands that the commentary will also develop over time.
31. GRECO concludes that recommendation v has been implemented satisfactorily.

III. CONCLUSIONS

32. **In view of the foregoing, GRECO concludes that Denmark has implemented satisfactorily two of the six recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, three have been partly implemented and one has not been implemented.
33. More specifically, recommendations v and vi have been implemented satisfactorily, recommendations i, iii and iv have been partly implemented and recommendation ii has not been implemented.
34. GRECO welcomes that codes of ethics have now been adopted both in respect of judges and public prosecutors in Denmark.
35. By contrast, in respect of members of parliament, GRECO regrets that no substantial progress has been reported that changes GRECO's conclusions in the previous compliance reports. Instead of elaborating some ethical standards (in the form of a

code of conduct, two former Speakers have sent similar letters to newly elected MPs (in 2015 and 2019) to draw their attention to the importance of ethical conduct. It is disappointing that also the current Presidium of the Danish Parliament appears satisfied with a letter without any reference to established standards as a sufficient tool in respect of MPs ethical conduct. What was considered as positive in the previous report, i.e. that the elaboration of a new letter/document would follow a more inclusive procedure, involving also a standing committee and the Presidium did not appear to materialise. GRECO can only conclude that Denmark remains almost alone among its members states not having in place a code of ethics for parliamentarians. This is regrettable. As far as the other pending recommendations concerning MPs are concerned, nothing new has been reported.

36. In view of the above, GRECO notes that the very low level of compliance with the recommendations (which now only concern members of parliament) more than five years after the adoption of the Evaluation Report, is “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO therefore continues to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of the Danish delegation to provide a report on the progress made in implementing recommendations i-iv as soon as possible, however – at the latest – by 31 December 2020.
37. Finally, GRECO invites the authorities of Denmark 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.

Appendix
English only

Letter sent by Pia Kjærsgaard as outgoing Speaker of Parliament to all members newly elected or reelected in the general election on 5 June 2019

Dear Member of Parliament,

Congratulations on attaining the office of Member of Parliament.

Being a Member of Parliament is one of the most distinguished positions of trust that one can attain as a citizen of Denmark. It is an expression of the fact that our fellow citizens have chosen to entrust each of us with the special responsibility, and shown each of us the confidence, of letting us make some of the most important decisions in society on their behalf.

How to exercise that office and live up to that confidence is – within the framework of the Constitutional Act of Denmark, other applicable laws and the rules for our cooperation that we establish for ourselves in the Standing Orders – up to each individual member. Precisely because being a Member of Parliament is a position of trust, it is to a very high degree left to each individual member to determine what he or she wants to work for, and how. This is a choice that each member must make on the basis of his or her own conscience and sense of responsibility towards his or her electors.

In addition to our individual responsibility towards our electors we also have a shared responsibility for, and a shared interest in, preserving and strengthening public trust in the nation's legislative assembly. We should all contribute to that in our day-to-day political work. We can do so by being inspired by, and acting in accordance with, values such as integrity, diligence, responsibility and care for the reputation of Parliament.

It is a natural part of the work of a Member of Parliament to seek knowledge about the society that surrounds us, e.g. by meeting with representatives of special interest groups or businesses or with other interested parties.

As Members of Parliament we should of course not exploit our office to gain undue advantages for ourselves or others. Naturally, each individual member is mindful of that. We should, however, be equally mindful of avoiding giving the general public such an impression. This implies that in our association with representatives of special interests – and particularly if we receive any gifts, hospitality, travel, etc. – we should pay close attention to whether the intention could be to influence our views in an improper manner, as well as to whether such an intention could be perceived to be present by the general public.

In practice, cases can easily arise in which one, as a Member of Parliament, has doubts as to whether it would be appropriate to accept a gift, hospitality, etc. That is particularly so if the gift etc. is of comparatively low value. It can be an argument for declining the gift that one does not wish to leave any doubts as to which interests one serves in one's political work, and that receiving it may, as mentioned, have a negative impact of the public opinion of the recipient and of Parliament. On the other hand, it can be an argument for accepting

the gift that it may seem rude to decline it, and that one does not wish to suggest that the donator has improper intentions.

Although it is of course a different matter to be a Member of Parliament than to be a public employee, it can be useful in cases of doubt to seek inspiration in the guidelines for public employees that the Agency for Modernisation has drawn up in the publication "Good Conduct in Public Service", the latest edition of which was published in December 2017. Here one can also find various examples that illustrate the difficulties that may arise.

In that same connection, I would point out that the Standing Orders Committee has decided that all members must register their occupations and financial interests in the publicly accessible registry in accordance with the rules governing the registry. It follows from the rules on the registry, inter alia, that gifts and travel etc. paid by others must in some cases be registered.

Legally speaking, Members of Parliament are permitted to act – with very few exceptions – in all cases under consideration in Parliament. Even if a member has a very clear and significant personal advantage or disadvantage e.g. from the passage or non-passage of a bill, that member is not legally restricted from acting in the matter.

The concerns mentioned above nevertheless make it advisable for a member who has, or whose relatives or associates have, a particular personal interest in a case to consider abstaining from acting in the case or declaring the interest. This however will generally not be relevant in cases where a member stands to gain an advantage solely by virtue of belonging to the population in general or to a wide class of people in society.

As Members of Parliament we work for society and the common good, but as mentioned, the determination of how best to do that is left to each member to make based on his or her conscience and convictions. This is all part of the statement of trust that is being elected Member of Parliament.

The purpose of this letter, therefore, is not to impose restrictions on the political work of Members of Parliament, but to encourage further attention and reflection on how each of us can contribute to bearing our shared responsibility for the integrity and reputation of Parliament.

Finally, I wish to point out that since the responsibility for the integrity and reputation of Parliament is a shared one, a member should not be left alone with his or her concerns when facing a difficult situation. For that reason, I encourage members to conduct a trustful dialogue, as far as possible, within the party groups about any cases that may arise.

Once again, congratulations on attaining the office of Member of Parliament.

On behalf of the Presidium and the Standing Orders Committee,

(signed) Pia Kjærsgaard
Speaker of Parliament