



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 24 March 2017
Publication: 6 July 2017

Public
GrecoRC4(2017)1

FOURTH EVALUATION ROUND

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

COMPLIANCE REPORT

GERMANY

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

F
O
U
R
T
H

E
V
A
L
U
A
T
I
O
N

R
O
U
N
D

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Germany to implement the recommendations issued in the Fourth Round Evaluation Report on Germany which was adopted at GRECO's 65th Plenary Meeting (10 October 2014) and made public on 28 January 2015, following authorisation by Germany ([Greco Eval IV Rep \(2014\) 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 Germany submitted a Situation Report on measures taken to implement the recommendations. This report was received on 20 September 2016 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected the Slovak Republic and Switzerland to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mrs Alexandra KAPIŠOVSKÁ on behalf of the Slovak Republic and Mr Ernst GNÄGI on behalf of Switzerland. 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 Germany in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. The authorities of Germany indicate that on 3 December 2014, the Federal Minister of Justice and Consumer Protection sent a letter to the President of the *Bundestag* (the national Parliament), along with GRECO's Evaluation Report and informing him of the recommendations issued with respect to Germany. The President of the *Bundestag*, in his reply of 14 March 2016, reported on the measures taken to implement the recommendations.
7. Namely, GRECO's recommendations concerning members of parliament had been deliberated during meetings of the Council of Elders' Commission for the Legal Status of Parliamentarians on 27 March 2015, representatives of the Internal Affairs Committee on 27 January 2016, the Committee for Scrutiny of Elections, Immunity and the Rules of Procedure on 18 February 2016. The outcome of those discussions and further measures are detailed under the individual recommendations below.

Recommendation i.

8. *GRECO recommended that the transparency of the parliamentary process be further improved, e.g. by introducing rules for members of parliament on how to interact with lobbyists and other third parties seeking to influence the parliamentary process.*

9. The authorities refer, firstly, to the discussions held by the three relevant parliamentary bodies (cf. paragraph 7 above). In particular, the Committee for Scrutiny of Elections, Immunity and the Rules of Procedure stressed that the transparency of the parliamentary process would continue to be the subject of political debate, both in the plenary sessions and in committees. At the same time, the Committee stated that the majority of its members did not wish to follow GRECO's recommendations.
10. On 18 February 2016, the Committee of Elders framed the rules with regard to the access of interest groups to properties of the *Bundestag* in a more restrictive manner: i.e. identification cards allowing access to the building would only be issued to interest group representatives from associations that are registered pursuant to Annex 2 to the Rules of Procedure of the *Bundestag* and have a representative office at the seat of the *Bundestag*. The maximum number of identification cards per association was reduced from five to two. Representatives from interest groups, companies or other organisations that are not registered on the list of associations would therefore no longer receive access to the building. Furthermore, the Berlin Administrative Court decided in June 2015 that on the basis of the Freedom of Information Act, anyone has the right to receive information from the *Bundestag* regarding the number of identification/access cards issued to association representatives and the names of those organisations.¹ The decision was confirmed in the second instance² and is final.
11. Finally, the authorities indicate that, since April 2016 – on the basis of an internal directive – statements by stakeholders (including lobby groups) interested in a legislative proposal under the responsibility of the Federal Ministry of Justice and Consumer Protection have systematically been made publicly available at the Ministry's website ("legislative footprint").³
12. GRECO acknowledges that transparency of lobbying has been enhanced to some extent, in particular, by limiting permanent access to the *Bundestag* premises by representatives of interest groups to those associations which are registered on the list of associations kept by the President of the *Bundestag*. It also welcomes the clarification, by court decision, that any citizen has the right to obtain information on the associations concerned. That said, GRECO wishes to stress that those measures only partly address the different concerns underlying the recommendation. For example, the Evaluation Report refers to outsourcing of the preparation of draft legislation, without such processes being made public; lack of transparency on the involvement of interest groups, enterprises and other private players in the preparation of concrete legislative acts and of the influence exerted by such stakeholders on lawmakers during the legislative process; late publication, in some instances, of draft legislation in the final stages of the law-making procedure; several shortcomings regarding the list of associations kept by the President of the *Bundestag*, which is voluntary and excludes other private players such as enterprises, self-employed lobbyists, lawyers, think tanks, etc.
13. The Evaluation Report includes a number of examples of how those concerns could be addressed, ranging from a "legislative footprint" i.e. a written trace of comments made by stakeholders that are taken into account in the drafting process – which by that time turned out to already be part of the German academic debate – to measures such as "making registration of lobbyists compulsory, requiring MPs to disclose their contacts with third parties in relation to draft legislation (as described above), introducing rules of conduct for the third parties concerned – as well as for

¹ Cf. Berlin Administrative Court, judgment of 18 June 2015 – VG 2 K 176.14.

² The *Bundestag* Administration had appealed against the decision by the Berlin Administrative Court.

³ See, for example, <http://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/DE/CSR-Richtlinie-Umsetzungsgesetz.html>

MPs, so as to provide guidance on how to deal with third parties seeking to influence MPs' work, and to actively promote transparency in this area." Even though the recommendation does not specifically require that all those possible measures are taken, it is clear that much more needs to be done to address the above-mentioned concerns. The reported publication of statements by stakeholders interested in draft legislation under the responsibility of the Federal Ministry of Justice and Consumer Protection is a first – although limited – step in that direction. GRECO would welcome other ministries following that example and also it being made clear which comments were taken into account in the drafting process.

14. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

15. *GRECO recommended (i) that a requirement of ad hoc disclosure be introduced when a conflict between specific private interests of individual members of parliament may emerge in relation to a matter under consideration in parliamentary proceedings – in the Bundestag plenary or its committees – independently of whether such a conflict might also be revealed by members' declarations of activities and income; and (ii) that members of parliament be provided written guidance on this requirement – including definitions and/or types of conflicts of interest – as well as advice on possible conflicts of interests and related ethical questions by a dedicated source of confidential counselling.*

16. The authorities report that at their meeting of 27 January 2016, the representatives of the Internal Affairs Committee determined that the responsible bodies needed more time to consult on the recommendations. The Committee for Scrutiny of Elections, Immunity and the Rules of Procedure, for its part, concluded at its meeting of 18 February 2016 that the majority of its members did not wish to follow GRECO's recommendations. As a complement, the authorities draw attention to already existing disclosure requirements under Rules 3 and 6 of the Code of Conduct for Members of the German *Bundestag*, which in their view have proven effective to meet any expectations on a legal requirement of *ad hoc* disclosure.

17. GRECO takes note of the information provided with regard to discussions held by relevant parliamentary committees. It is concerned that two and a half years after the adoption of the Evaluation Report, no concrete steps have been taken in view of the implementation of this important recommendation. GRECO wishes to stress that the existing rules of the Code of Conduct, to which the authorities refer, had already been examined in detail in the Evaluation Report and found insufficient to ensure transparency of actual or potential conflicts of interest. The authorities are urged to speed up the process and to present tangible results.

18. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

19. *GRECO recommended (i) that the existing regime of declarations of interests be reviewed in order to extend the categories of information to be disclosed to include, for example, information on significant assets – including shareholdings in enterprises below the current thresholds – and significant liabilities; and (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).*

20. The authorities indicate that at its meeting of 27 March 2015, the Council of Elders' Commission for the Legal Status of Parliamentarians rejected the idea of extending

disclosure requirements to assets and liabilities, as well as that of extending them to family members. Similarly, the Committee for Scrutiny of Elections, Immunity and the Rules of Procedure concluded at its meeting of 18 February 2016 that the majority of its members did not wish to follow GRECO's recommendations. Specifically, the members stated that all parliamentary groups had constitutional reservations against a renewed extension of existing disclosure requirements, which had been expanded in 2013 following lengthy debate, to include information on significant assets or liabilities, as well as on the financial situation of family members. In the opinion of the committee members, this type of legal change would unjustifiably interfere with the free mandate, as well as with the fundamental rights of third parties. The authorities add that in their view, any publication of assets or liabilities would disproportionately infringe on the right to privacy and, on these grounds, be unconstitutional; to an even greater extent this would apply to family members. It is planned to prepare a legal analysis of those questions which would take into account the legal framework provided by the European Convention on Human Rights, the Constitution of Germany and the Code of Conduct for Members of the German *Bundestag*. Finally, the authorities stress that economic relations of members of parliament with third parties (ancillary activities, contributions/donations or stakes in enterprises) are being published above certain thresholds, which in their view already ensures disclosure of all relevant actual or potential conflicts of interests to the public.

21. GRECO takes note with concern of the information provided, according to which the relevant parliamentary bodies reject any further extensions of the disclosure requirements. The mere fact that the declaration regime has already been amended in the past cannot justify the blockage of any future reforms. As far as the constitutional reservations raised by the authorities are concerned, not even concrete proposals on possible amendments to the declaration regime coupled with a legal analysis have been presented. GRECO looks forward to the legal analysis which is now planned. It is convinced that adequate solutions can be found, bearing in mind that many other European countries have found ways to balance the conflicting rights and interests – e.g. by ensuring that some of the information declared by MPs is not made public. GRECO is of the firm opinion that more needs to be done to ensure transparency of actual or potential conflicts of interest, as described in the Evaluation Report and in line with GRECO's standing practice. In the current absence of any tangible results, GRECO concludes that the first part of the recommendation has not been implemented.
22. The situation is somewhat different as regards the second part of the recommendation, since it only requires *that "consideration be given to widening the scope of the declarations to also include information on spouses and dependent family members"*. In line with its standing practice regarding this type of recommendation, GRECO takes account of the fact that the matter has been discussed by the relevant parliamentary bodies and has been documented; on the other hand, GRECO would expect more in-depth examination of possible legal solutions, possibly with the involvement of appropriate (expert) institutions/individuals. It therefore concludes that the second part of the recommendation has been partly implemented. Finally, GRECO wishes to stress that its recommendations aimed at enhancing transparency through more comprehensive disclosure obligations – including MPs' interests as well as significant assets and liabilities – are a cornerstone of the Fourth Evaluation Round with respect to MPs. GRECO therefore invites the authorities to step up their efforts on this matter with a view to presenting concrete results.
23. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

24. *GRECO recommended that appropriate measures be taken to ensure effective supervision and enforcement of the current and future declaration requirements, rules on conflicts of interest and other rules of conduct for members of parliament, inter alia, by strengthening the personnel resources allocated by the Bundestag Administration.*
25. The authorities report that the Council of Elders' Commission for the Legal Status of Parliamentarians discussed the recommendation at its meeting of 27 March 2015 and that an additional position has been applied for the *Bundestag* administration to improve supervision and enforcement of the rules of conduct. The authorities add that in their view, the existing supervisory mechanism works well, given that political opponents seek to highlight any misbehaviour and therefore only very few MPs actually do not comply with the rules.
26. GRECO notes that an application has been made to increase the number of staff of the *Bundestag* Administration from two to three. While this initiative is clearly to be welcomed, GRECO cannot conclude – at this early stage – that the recommendation has even been partly implemented. GRECO would also expect a broader approach to possible reforms of the administrative control system. It recalls that in the Evaluation Report, a need for reform had been identified and several possible measures had been indicated by way of example, such as providing the monitoring mechanism with investigative powers (e.g. to commission experts, summon witnesses), ensuring that the declarations submitted are scrutinised beyond the information that MPs themselves provide, considering entrusting an independent commission with supervisory functions.
27. GRECO concludes that recommendation iv has not been implemented.

Corruption prevention in respect of judges

Recommendation v.

28. *GRECO recommended i) that a compendium of the existing rules for ethical/professional conduct – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues – be developed, communicated effectively to all judges and made easily accessible to the public; and ii) that it be complemented by practical measures for the implementation of the rules, including dedicated training and confidential counselling for both professional judges and lay judges. The Länder are to be invited to contribute to such a process.*
29. With regard to the first part of the recommendation, the authorities indicate that the ethical and professional standards applicable to judges – and public prosecutors – as governed in the respective factual context and therefore “scattered” across various legal acts, have been collated into a comprehensive compendium. The *Länder* participated in the process by forwarding the rules valid at the *Land* level. The compendium thus includes rules both at the level of constitutional and federal law and at the level of all 16 of the federal *Länder*; it covers questions of conduct in office, conflicts of interest, secondary activities, bans on accepting rewards, gifts or other benefits, and corruption prevention in general. The compendium has therefore become quite extensive (more than 500 pages). The authorities stress nonetheless that it is easy to handle because of its clear structure. For example, the reader can look up in a targeted manner the rules which apply to him/her based upon the *Land* in which s/he works.

30. The authorities stress that this comprehensive overview of existing ethical and professional standards, which has been compiled for the first time, has been made available both to the public and to legal practitioners. It has been forwarded to the federal courts, the federal prosecutor general's office, and the *Land* justice administrations with the request to make it available to judges and public prosecutors; it has also been published as an easy to handle online version on the website of the Federal Ministry of Justice and Consumer Protection.⁴
31. As far as the second part of the recommendation is concerned, the authorities report that the compendium also contains explanatory comments and/or practical examples. It furthermore includes a large number of various administrative provisions and guidelines (both at the federal and *Länder* levels), which generally include comprehensive codes of conduct and a number of example cases and explanations of typical factual constellations, in the fields of corruption, sponsoring and conflicts of interest. Additional explanations or comments have been added in places where it appeared helpful to aid understanding of the rules and/or the compendium.
32. The authorities go on to state that the existing rules governing ethical and professional standards and associated topics are the subject of targeted and multi-faceted advanced training measures. An extensive list of training activities for judges (and prosecutors), both at the federal and *Länder* levels, has been made available to GRECO. The German Judicial Academy (DRA), an advanced training facility for judges and public prosecutors jointly operated by the federation and the *Länder*, is open to judges from all jurisdictions and public prosecutors throughout Germany; it regularly offers seminars, many with an interdisciplinary approach, which address the topic of ethical and professional conduct. Additionally, the *Länder* offer their own advanced training in this area. These events will continue to take place in the future and will therefore contribute to implementation of the rules contained in the compendium. The compendium will now serve seminar leaders as a tool to carry out their events, in addition to providing support to their participants. Moreover, the authorities indicate that there are contact persons for corruption prevention, both at the federal and *Länder* levels, whose work will also be aided by the compendium and the information it contains. Finally, the authorities refer to guidance provided to lay judges in the form of written guidelines and introductory sessions in different *Länder*.
33. GRECO very much welcomes the elaboration of the compendium of existing rules for judges' – and public prosecutors' – ethical/professional conduct. The compendium is an impressive document which provides a comprehensive overview of existing standards, as recommended. GRECO acknowledges that all the *Länder* have been involved in its development and that it has been distributed and made available to both legal practitioners concerned and to the public at large. Moreover, it is noteworthy that this document includes practical examples, guidelines and comments. GRECO also notes with satisfaction that the compendium now serves as a basis for training on ethical and professional conduct, which is provided to judges – and public prosecutors – on a regular basis, and for counselling by contact persons for corruption prevention. Finally, it notes that guidance on questions of conduct is also provided to lay judges. GRECO encourages the authorities to continue and further develop training and counselling on matters of ethics and conduct for judges at the federal and *Länder* levels, including for lay judges, and to keep the compendium updated in the future.
34. GRECO concludes that recommendation v has been implemented satisfactorily.

⁴ See http://www.bmju.de/SharedDocs/Downloads/DE/Fachinformationen/Kompendium_von_Regelungen_in_Bund_und_Laendern_%C3%BCber%20das_berufsethische_Verhalten_von_Richtern_und_Staatsanwaelten_Web.pdf?__blob=publicationFile&v=2 (German only).

Recommendation vi.

35. *GRECO recommended that appropriate measures be taken with a view to enhancing the transparency and monitoring of secondary activities of judges. The Länder are to be invited to contribute to such a reform process.*
36. *The authorities report that the topic of secondary activities of federal judges has been raised several times. In addition to a meeting held with the Presidents of the superior federal courts, the topic was also discussed in autumn 2015 among the justice state secretaries of the Federation and the Länder. It became clear there that the legal situation varies greatly even in the Federation and among the Länder, and that given the federal structure of Germany, it would likely not be possible to achieve a uniform rule – even just among the Länder. The justice state secretaries agreed to again raise the topic in the course of their 2016 autumn meeting. This has apparently not led to any concrete initiatives.*
37. *Additionally, a review carried out by the Federal Ministry of Justice and Consumer Protection found that there is little room to further restrict the legal framework conditions with regard to secondary activities of federal judges. This was explained by the constitutional protection of freedom of opinion and academic freedom, and by the case law of the highest German jurisdictions. Inter alia, the Federal Administrative Court has held unconstitutional an obligation to hand over income earned through secondary activities in the private sector.*
38. *The authorities conclude that measures to promote more effective application of the existing law promise greater success. They add that the Court of Audit (Bundesrechnungshof) carried out a review of side activities at a high-level federal court within the remit of the Federal Ministry of Justice and Consumer Protection. Currently, its report is being analysed. Further, it can be noted that side activities of judges of different courts have recently triggered a broad public debate.*
39. *GRECO takes note of the information, according to which the topic of secondary activities of judges and possible further restrictions in this area have been discussed at different levels. GRECO wishes to stress that the recommendation was mainly aimed at enhancing transparency and monitoring of secondary activities (rather than introducing additional restrictions). It would appear that the authorities have started to explore possible measures to reach that aim. However, in the present absence of any concrete achievements, GRECO cannot conclude that the recommendation has even been partly implemented.*
40. *GRECO concludes that recommendation vi has not been implemented.*

Corruption prevention in respect of prosecutors

Recommendation vii.

41. *GRECO recommended (i) that consideration be given to abolishing the right of Ministers of Justice to give external instructions in individual cases; and, in case this right is not abolished, (ii) that further appropriate measures be taken to ensure that such instructions by Ministers of Justice carry with them adequate guarantees of transparency and equity and – in case of instructions not to prosecute – are subject to appropriate specific control. The Länder are to be invited to contribute to such a reform process.*
42. *The authorities report that the recommendation was subject to an extensive review by the Federal Ministry of Justice and Consumer Protection. The Länder had been requested to take a position in writing on the recommendation and have done so.*

As regards more particularly the first part of the recommendation, aimed at abolishing the justice ministers' right to issue external instructions in individual cases, the position statements of the *Länder* and of professional associations and interest groups⁵ were evaluated and included in the review, as well as the results of a Federation-*Länder* Commission to analyse judicial autonomy in Europe.⁶ The latter did not identify any fundamental need for reform and stressed that due to the many differing models of judicial self-administration in Europe, a uniform assessment of various justice models is not possible. Similarly, most of the *Länder* saw no need to act because the right to issue external instructions in specific cases is exercised rarely in practice and is already limited, in particular, by the principle of mandatory prosecution. In addition, constitutional reservations were raised, given that the respective justice ministers are accountable to parliament for the actions of the public prosecutors' offices.

43. Against that background, the authorities decided to implement the recommendation by creating appropriate guarantees of transparency and fairness. It is to be noted that professional associations which submitted detailed position statements on the Evaluation Report, and on recommendation vii in particular,⁷ also advocated for the introduction of further measures to ensure transparency and equity, including the requirement that all instructions in individual cases be written and reasoned. Several *Länder* have already initiated measures in this regard, e.g. in North Rhine-Westphalia,⁸ Berlin and Schleswig-Holstein. Implementation at the federal level has been prepared, taking into account the transparency rules in effect in other states. On 13 December 2016, a revised version of the decree of the Federal Ministry of Justice and Consumer Protection regarding the reporting obligations of the Federal Prosecutor General entered into force. In order to ensure that instructions are transparent and revisable, the decree now provides that any instructions by the Federal Ministry of Justice and Consumer Protection to the Federal Prosecutor General must now always be issued in written form. This was previously not explicitly regulated.⁹ The revised decree further points out that the right to issue external instructions is subject to legal limitations and is generally exercised by the Federal Ministry of Justice and Consumer Protection in a restrictive manner. Any such instructions would have to become part of the file.
44. GRECO acknowledges that the recommendation has been reviewed by the Federal Ministry of Justice and Consumer Protection, with the involvement of the *Länder*, of professional associations and interest groups and of a Federation-*Länder* Commission to analyse judicial autonomy in Europe. The reservations against abolishing the justice ministers' right to issue external instructions in individual

⁵ The following professional associations and interest groups had been invited by the Federal Ministry of Justice and Consumer Protection to state their position on the recommendation: Deutsche Juristinnenbund e.V. (German Female Lawyers' Alliance), Deutscher Richterbund e.V. (German Association of Judges), Neue Richtervereinigung e.V. (New Association of Judges), Deutscher Anwaltverein e.V. (German Lawyers' Association), Bundesrechtsanwaltskammer (German Federal Bar Association), Wirtschaftsstrafrechtliche Vereinigung e.V. (Association on Financial and Economic Offences), Bundesverband ehrenamtlicher Richterinnen und Richter (Federal Alliance of Volunteer Judges), ver.di (United Service Industry Trade Union).

⁶ "Albrecht Commission", under the academic supervision of Prof. Dr. Albrecht.

⁷ Namely, the Deutscher Anwaltverein e.V. (German Lawyers' Association) and the Wirtschaftsstrafrechtliche Vereinigung e.V. (Association on Financial and Economic Offences)

⁸ Cf. the "Ten Guidelines on Exercising the Authority to Issue Instructions to the Public Prosecutor's Offices in North Rhine-Westphalia", with which the Justice Minister obligates him/herself as a general rule to refrain from making use of his/her authority to issue instructions in pending investigation proceedings. The only exception to this is when the responsible public prosecutor general improperly refrains from intervening even if the prosecutor's office handles a case in a manner amounting to an error of law. However, according to the guidelines, such an instruction may be issued only in writing and is to be directed to the public prosecutor general, who checks its lawfulness before forwarding it to the prosecutor who has committed the error.

⁹ It is to be noted, however, that section 63 (2), fifth sentence of the Federal Civil Service Act already previously provided that the confirmation of an instruction (following remonstrance, i. e. an objection by a civil servant to an instruction given by his/her superior) had to be issued in written form upon request of the subordinate civil servant – which would include a public prosecutor.

cases – which was the subject of the first part of the recommendation – are mainly based on arguments already referred to in the Evaluation Report (rare occurrence in practice, principle of mandatory prosecution, etc.). GRECO wishes to recall the concerns expressed in the Evaluation Report about phenomena such as anticipatory obedience and influence on the prosecution by ministers in more subtle ways than express instructions. That said, this part of the recommendation has nevertheless been implemented as it has been duly considered.

45. As far as the second part of the recommendation is concerned, GRECO acknowledges that, by revising the decree regarding the reporting obligations of the Federal Prosecutor General – including by requiring written form of any instructions by the Federal Ministry of Justice and Consumer Protection to the Federal Prosecutor General – further measures have been taken to increase transparency and fairness of instructions, in addition to those already in place at *Länder* level. At the same time, it encourages the authorities to keep under review the question of whether additional measures are necessary such as those suggested in the Evaluation Report (e.g. requiring Government to seek prior written advice from the competent public prosecutor and to duly explain its written instructions, or to subject instructions not to prosecute to an appropriate specific control) and whether appropriate guarantees of transparency and fairness are in place in all the *Länder*.
46. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation viii.
47. *GRECO recommended i) that a compendium of the existing rules for ethical/professional conduct – accompanied by explanatory comments and/or practical examples specifically for public prosecutors, including guidance on conflicts of interest and related issues – be developed, communicated effectively to all public prosecutors and made easily accessible to the public; and ii) that it be complemented by practical measures for the implementation of the rules, including dedicated training and confidential counselling for all public prosecutors. The Länder are to be invited to contribute to such a process.*
48. The authorities refer to the information provided under recommendation v with respect to judges, which is relevant to public prosecutors as well. Namely, the compendium of existing rules for public prosecutors’ – and judges’ – ethical/professional conduct has been elaborated, with the participation of the 16 *Länder*; it has been distributed and made available to both legal practitioners concerned and to the public at large; it includes practical examples, guidelines and comments; and it now serves as a basis for training on ethical and professional conduct, which is provided to public prosecutors – and judges – on a regular basis, and for counselling by contact persons for corruption prevention
49. GRECO very much welcomes the elaboration, distribution, publication and use (e.g. during regular training sessions and by contact persons for corruption prevention) of the compendium of existing rules for public prosecutors’ – and judges’ – ethical/professional conduct. It refers to the positive assessment it made in this respect above under recommendation v.
50. GRECO concludes that recommendation viii has been implemented satisfactorily.

III. CONCLUSIONS

51. In view of the foregoing, GRECO concludes that Germany has implemented satisfactorily or dealt with in a satisfactory manner three of the eight recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, two have been partly implemented and three have not been implemented.
52. More specifically, recommendations v, vii and viii have been implemented satisfactorily, recommendations i and iii have been partly implemented and recommendations ii, iv and vi have not been implemented.
53. With respect to members of parliament, GRECO notes that its recommendations were deliberated during several meetings of relevant parliamentary bodies but met with some resistance – in particular as regards further extensions of the declarations of interest to be submitted by parliamentarians. GRECO wishes to stress that its recommendations aimed at enhancing transparency through additional disclosure obligations – including parliamentarians’ interests as well as significant assets and liabilities – are a cornerstone of the Fourth Evaluation Round. On a positive note, transparency of lobbying has been enhanced to some extent, in particular, by limiting permanent access to the *Bundestag* premises by representatives of interest groups to those associations which are registered on the list of associations kept by the President of the *Bundestag*. That said, much more needs to be done to increase transparency of the parliamentary process in a more comprehensive sense. All in all, little tangible progress has been achieved. More determined action is also needed to regulate conflicts of interest more closely and to ensure effective supervision and enforcement of the different rules of conduct for members of parliament.
54. As far as judges and prosecutors are concerned, the elaboration of a comprehensive compendium of existing rules for judges’ and public prosecutors’ ethical/professional conduct – as complemented by practical examples, guidelines and comments – is to be welcomed. The compendium has been made available to the public at large and now serves as a basis for training and counselling provided to judges and public prosecutors. Some measures have also been taken to ensure that external instructions by Ministers of Justice in individual cases carry with them adequate guarantees of transparency and equity. At the same time, the authorities are encouraged to keep this matter under review in order to ascertain possible needs for further reform. Moreover, the authorities are invited to step up their efforts to enhance transparency and monitoring of judges’ secondary activities.
55. In view of the above, GRECO notes that in the current absence of final achievements in respect of a number of recommendations, further significant material progress is necessary to demonstrate that an acceptable level of compliance with the recommendations within the next 18 months can be achieved. However, bearing in mind that several positive measures have already been taken and on the understanding that the German authorities will further pursue their efforts, GRECO concludes that the current low level of compliance with the recommendations is not “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of GRECO’s Rules of Procedure. GRECO invites the Head of delegation of Germany to submit additional information regarding the implementation of recommendations i, ii, iii, iv and vi by 30 September 2018.
56. Finally, GRECO invites the authorities of Germany 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.