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FOURTH EVALUATION ROUND

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

EVALUATION REPORT

GREECE

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GRECO Secretariat
Council of Europe
F-67075 Strasbourg Cedex
☎ +33 3 88 41 20 00

www.coe.int/greco

Directorate General I
Human Rights and Rule of Law
Information Society and Action
against Crime Directorate

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EXECUTIVE SUMMARY

1. Corruption is now considered as one of the problems which have driven Greece into the current financial crisis. Greece thus adopted in 2013/2014 an anti-corruption strategy and an action plan. The perception of corruption remains at high levels although some positive trends can be observed in recent years according to the indexes published by Transparency International. Politicians at national and regional/local level are perceived by a large proportion of the population as particularly affected by certain forms of corruption. To a lower extent, this concerns also the judicial institutions whilst at the same time, the courts are among the institutions which are generally trusted by Greek citizens. Controversies have been triggered by incidents of legislative and institutional manipulation exempting from their liability the authors of illegal acts: this was facilitated by the complexity of legislation, insufficient transparency of the legislative process, a lack of appropriate controls and other factors.

2. Greece is at an early stage of integrity-related policies for parliamentarians. There is no code of conduct as yet and rules are missing in respect of a variety of areas such as: the management of punctual conflicts of interests; circumstances in which gifts, hospitality and other benefits can be accepted; how to prevent the misuse of information; contacts with third parties and lobbyists; awareness-raising, training and/or advice on integrity-related matters. The main positive measure taken to date was the introduction in 2003 of a system for the declaration of income and assets, applicable also to interests as from 2015. The supervision exerted so far by the Parliament itself has not been effective. As from 2015, a new independent body – the Committee for the Investigation of Declarations of Assets, CIDA is taking over the control of declarations. It was provided with guarantees of independence and it is important that it fulfils its duties in an effective and pro-active manner. Improvements in these various areas will not achieve their overall goal if more fundamental issues are not addressed in parallel. Greece needs to provide for adequate scrutiny when legislation is in the drafting/adoption stage and to adopt rules on additional forms of support provided to parliamentarians from outside parliament, which are consistent with the legislation on political financing and future rules on gifts and other benefits. Greece also needs to further review the system of immunities and to ensure parliamentarians are fully aware of their current and future obligations, including the legal implications of bribery offences.

3. By contrast, judges and prosecutors – who are part of the same professional body – are subject to career-related mechanisms, procedural rules and supervisory arrangements which prevent corruption. They are also subject to the declaration system now involving CIDA. That said, in their case too, the adoption of a code of conduct would help specify and mainstream the standards, and the development of the existing training provided by the National School for Judges would promote these further including through on-going training. Judges and prosecutors are largely protected in their activity against undue interference, especially through a model of justice based on self-management which involves several judicial and disciplinary councils composed of peers. But the situation of the most senior positions in court and the prosecution service needs to be improved since for instance the method for their selection and their term of tenure creates a dependence vis a vis the executive. For similar considerations, the procedure involving the special court which hears cases involving members of government needs to be reviewed. The justice system suffers from severe backlogs, which generate risks of undue interference; adequate guarantees against delays in the early stage of proceedings are thus needed, for instance. More globally, the overall functioning of the justice system would need to be made more assessable, transparent and accountable through such measures as consolidated periodic reporting. The introduction of a long-awaited IT system would support data collection and new working methodologies.

I. INTRODUCTION AND METHODOLOGY

4. Greece joined GRECO in 1999. Since its accession, this country has been subject to evaluation in the framework of GRECO's First (in May 2002), Second (in December 2005) and Third (in June 2010) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (www.coe.int/greco).

5. GRECO's current Fourth Evaluation Round, launched on 1 January 2012, deals with "Corruption Prevention in respect of Members of Parliament, Judges and Prosecutors". By choosing this topic, GRECO is breaking new ground and is underlining the multidisciplinary nature of its remit. At the same time, this theme has clear links with GRECO's previous work, notably its First Evaluation Round, which placed strong emphasis on the independence of the judiciary, the Second Evaluation Round, which examined, in particular, the public administration, and the Third Evaluation Round, which focused on corruption prevention in the context of political financing.

6. Within the Fourth Evaluation Round, the same priority issues are addressed in respect of all persons/functions under review, namely:

- ethical principles, rules of conduct and conflicts of interest;
- prohibition or restriction of certain activities;
- declaration of assets, income, liabilities and interests;
- enforcement of the applicable rules;
- awareness.

7. As regards parliamentary assemblies, the evaluation focuses on members of national Parliaments, including all chambers of Parliament and regardless of whether the Members of Parliament are appointed or elected. Concerning the judiciary and other actors in the pre-judicial and judicial process, the evaluation focuses on prosecutors and on judges, both professional and lay judges, regardless of the type of court in which they sit, who are subject to national laws and regulations.

8. In preparation of the present report, GRECO used the responses to the Evaluation Questionnaire (Greco Eval IV (2014) 11) provided by Greece. In addition, a GRECO evaluation team (hereafter referred to as the "GET") carried out an on-site visit to Greece from 1 to 5 December 2014, which afforded the opportunity to collect a number of additional documents and information provided by the people with whom the team spoke and/or obtained from public sources. The members of the GET were Mr Philippos KOMODROMOS, Lawyer, Office of the Attorney General, Counsel of the Republic (Cyprus), Mr Mauro DE DOMINICIS, Parliament advisor, Head of the Competencies Unit of the Parliament (Italy), Ms Oana Andrea SCHMIDT HAINEALA, Prosecutor, elected member of the Superior Council of Magistracy (Romania) and Mr Rolf de GROOT, Judge at the Court of Appeal in Arnhem, Chairman of the fraud chamber (Netherlands). The GET was assisted by Mr Christophe SPECKBACHER from the GRECO Secretariat.

9. The GET met with representatives, members, officials and senior figures from the following State institutions: the Hellenic Parliament (Secretary General, Special Permanent Committee on Parliamentary Ethics, Committee for MP and Political Party Auditing, individual members of parliament), the Ministry of Justice, Transparency and Human rights; the National Coordinator Against Corruption; the Supreme Court (including its Judicial Council for Disciplinary Proceedings); the Council of State; the Court of Appeal and first instance court of Athens; the Prosecutor's Office (Department for Corruption Offences; the offices to the Supreme Court, to the Athens Court of Appeal and to the first instance court); the Hellenic Authority for Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation; the National School of Judges. The GET also met with representatives from the following civil society bodies: the

Association of judges and prosecutors; the Association of Prosecutors; the Athens Bar Association; the Greek Chapter of Transparency International; the media (a newspaper and a radio station); the Greek committee of the International Chamber of Commerce; the Hellenic Network for Corporate Social Responsibility.

10. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of Greece in order to prevent corruption in respect of Members of Parliament, Judges and Prosecutors and to further their integrity in appearance and in reality. The report contains a critical analysis of the situation in the country, reflecting on the efforts made by the actors concerned and the results achieved, as well as identifying possible shortcomings and making recommendations for further improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of the Country, which are to determine the relevant institutions/bodies responsible for taking the requisite action. Greece has no more than 18 months following the adoption of this report, to report back on the action taken in response.

II. CONTEXT

11. Over the last 15 years, the fight against corruption has been progressively recognised as an important issue in Greece. The National Integrity Survey (NIS) released in February 2012 by the Greek Chapter of Transparency International (TI) estimated that "the annual turnover of corruption in Greece exceeds €3,000,000,000, and along with underground economy it exceeds €70,000,000,000."[1] Corruption is now considered as "the problem which drove Greece into the current financial crisis" as some officials pointed out during the present on-site visit. The country, which is accompanied in its efforts by the internal financial institutions and the European Commission is now putting in place a series of measures to address both the economic situation and the issue of corruption. It adopted in 2013/2014 an anti-corruption strategy and action plan and appointed for a five-year term an independent national coordinator to monitor their effective and timely implementation.

12. In the latest Corruption Perception Index (2014), reflecting public perception of corruption around the world, published annually by TI, Greece is ranked 69th out of 175 countries with a score of 43 out of 100[2]. In this position, it is the 33rd of the 49 GRECO members. After a historically low ranking in 2008/2009, the position of Greece is thus marked by a positive upward trend in recent years in TI's CPI. Yet, in accordance with the Eurobarometer survey 2013 on the perception of corruption (released in February 2014) which covers specifically the 27 European Union Member States, Greece sometimes remains characterised by the highest levels of perceived corruption. For instance, 99 % of those questioned consider that corruption is widespread in the country and 63% consider that it affects them personally in daily life. 93% consider that bribery and the use of connections is often the easiest way to obtain public services and only 11% consider that measures against corruption are applied impartially and without ulterior motives. When it comes to actual experience with corruption, 31% of respondents indicate that they know personally someone who takes or has taken bribes, which is the third highest rate among the 27 EU countries. GRECO also refers back to the information contained in earlier GRECO reports, for instance the Third Evaluation Round Report (Theme I) – paragraph 115, on certain payment practices seen as common in Greece, and the ineffectiveness of anti-corruption authorities to deal with corruption-related cases. Recent periodic polls conducted by the Greek chapter of TI sometimes suggest an increasing resistance of Greek households to pay small bribes for public services but also in the private sector. Averages amounts and upper maximum of bribes are reportedly decreasing (at around 1400€) whereas the minimum amounts paid are increasing. This is sometimes commented as a possible result of the country's economic and financial difficulties[3]. On the other side, the multiplicity of reforms is occasionally perceived as an additional risk factor for red tape practices behind which criminal-minded decision-makers can even better dissimulate corrupt acts[4]. A number of Greek representatives met during the present on-site visit also pointed to the persisting complexity, fragmentation and lack of codification of rules and legislation with important secondary legislation missing sometimes. They also pointed to important delays in judicial proceedings as well as diverging case law, including on the constitutionality of individual situations. These are seen as additional risk factors.

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[1] It identifies the causes for domestic corruption as follows: "dysfunctional democracy; interplay between the "four" powers; weak rule of law; lack of transparency in the work of the government; dependence of public administration on political parties; broad discretion in the exercise of public authority; legislative complexity; bureaucracy; lack of audit and sanctions; weak practices of sound management; irrational state business activity; lack of codes of conduct in the public and private sector; complex mechanism for identifying corruption and non-guarding of independent authorities and audit mechanisms; anemic civil society; the mentality of tolerance that is nurtured by society and influences people's behaviour; inadequate education of citizens in matters of corruption."

[2] 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean

[3] www.transparency.org/news/pressrelease/strong_strike_for_fakelaki_small_bribe_in_greece_due_to_the_economic_crisis

[4] According to the Head of the Greek chapter of Transparency International, quoted in media material at the time of the on-site visit: www.theguardian.com/world/2014/dec/03/greece-corruption-alive-and-well

13. As for MPs specifically, according to the Eurobarometer 2013 on the perception of corruption, 66% of respondents in Greece believe that bribery and abuse of power for personal gain is widespread among politicians at national, regional or local level, which is above the EU average (56%). The NIS of 2012 mentioned above has assessed parliamentary institutions in critical terms on such criteria as accountability and integrity in practice. In 2014, there were even allegations of manipulation of legislation in order to provide for the impunity ex post facto of acts of misuse of State resources and corruption-related offences[5].

14. The GET further noted that the media have reported in the last few years about criminal proceedings being initiated against prominent political or economic personalities and some of the persons met on site referred to these as success stories. Other interlocutors pointed to the fact that so far only one or two senior personalities had actually been convicted for integrity-related issues. There have been allegations of apparent undue influences on the course of justice and persisting difficulties to process cases involving public figures[6]. The GET was told that there is still widespread perception in Greece that politicians enjoy broad impunity for their action due to the combination of partisan nepotism and of inadequate procedures for authorising proceedings against Ministers and parliamentarians. An overview of proceedings for criminal acts committed by MPs is not available, reportedly because no one has been designated – at least within the Prosecutorial services – to keep such figures. The GET was also told that the persisting absence of a general system of statistics for the judiciary actually prevented the production of such figures (the absence of a proper data collection and retention system was already pointed out by GRECO in 2001 and in 2010[7]). Likewise, the outcome of cases initiated against judges and prosecutors for non-compliance with the periodic declaration of assets remains unknown. The controversies surrounding the early closure of parliament on 4 June 2014 offer a particular illustration of the lack of serenity surrounding sometimes judicial proceedings involving senior figures[8]. Undue pressure on individual judges and prosecutors through public statements and other means , was also observed in such instances[9]. The Greek authorities recall that this does not mean that these interventions achieve their intended purpose.

15. On judicial institutions, the Eurobarometer 2013 on the perception of corruption reports that 40 % of respondents believe that the courts are affected by bribery and abuse of power for personal benefit (EU average 23%); concerning prosecutors, this percentage is somewhat lower at 26% but still above EU average (19%). At the same time, it is often reported that the judiciary is among the most trusted institutions Greece, which would explain the volume of files submitted by citizens who reportedly seek redress i.a. for the consequences of the malfunctioning of other State institutions[10]. The present evaluation visit did not provide the GET with a clear picture of the extent and processing of cases involving judges and prosecutors in practice as quantitative data is –

[5] See for instance: www.nytimes.com/2014/10/17/world/europe/immunity-provisions-cast-doubt-on-greeces-efforts-to-fight-graft.html?_r=1

[6] www.nytimes.com/2015/02/27/business/international/in-greece-bailout-may-hinge-on-pursuing-tycoons.html?_r=1

[7] See the Third Evaluation Round Report on Greece, Theme I – Incriminations, paragraph 114: www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)9_Greece_One_EN.pdf

[8] http://elladastinkardiamou.com/2014/06/04/parliament-shut-down-in-shock-move-syriza-claims/

[9] One of the political parties has reportedly released a statement maintaining that neither the two deputy prosecutors nor any prosecutor's office "had the competency to conduct whatever supposed preliminary investigation, not to mention proceed with any sort of evaluation." The statement released also reportedly threatened the two prosecutors in charge of the cases by stating that, "the Prosecutor of the Supreme court, we are certain, will investigate [their] unconstitutional and illegal manoeuvre which was intended to create fleeting impressions" (http://www.thepressproject.net/article/64081/Shock-Parliamentary-shutdown-appears-intended-to-save-Venizeloss-skin) The NIS 2012 (page 62) has also reported about this kind of phenomenon of political figures seeking to influence the public opinion and to put pressure on the judges "with interviews, statements and all kinds of interventions".

[10] See also the NIS 2012 which assesses the legal framework to safeguard the judiciary against corruption and its implementation in practice as globally satisfactory, and refers to the citizens' trust despite isolated judicial scandals.

again – not steadily available and consolidated. Those interviewed on site acknowledged the existence of a few serious bribery cases in recent years but they did not see the judiciary as particularly corrupt. On the other side, the phenomenon of lawyers offering to their client to fix cases with the judge or prosecutor in charge appears in opinion polls conducted domestically. A representative of the profession met by the GET referred to widespread beliefs of bribery in civil cases and a judge considered that it would (also) be a classical deceptive manoeuvre used by lawyers to justify their high fees. Discussions held with judicial practitioners in charge confirmed the existence of corruption cases against judges and prosecutors, which had mostly been triggered by reports to the police.

III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT

16. The Hellenic parliament has not adopted a specific policy or plans concerning the integrity of members of parliament (MPs). The main pertinent arrangements in place at the time of the on-site visit concerned the duty for MPs to file a declaration of interests. Many interlocutors of the GRECO Evaluation Team (GET) referred to plans and proposals for improvement which would remedy certain deficiencies in the functioning of the parliament and fill some gaps as regards integrity standards, but overall, getting an accurate and consistent picture of the actual situation and of the intended changes was at times difficult.

Overview of the parliamentary system

17. Greece is a parliamentary republic. The Hellenic Parliament is monocameral. Besides the classical tasks in the area of legislation, control of the Government and adoption of the budget, the Parliament has also responsibility for the Revision of the Constitution, for the election of the President of the Republic, for the approval of programs of social and financial development, for the initiation of referenda and so on. The Parliament also controls the country's so-called Independent Authorities/Agencies, which are required to submit by 31 March of each year an annual report on their activities. As in any other parliament, a series of working structures have been established to perform these tasks; they are listed on the Parliament's website[11].

18. MPs are elected for a four year-term according to a mixed proportional and majority vote system. Conditions to stand for elections include the Greek nationality, full possession of voting rights and 25 years of age on the day of election. The Constitution of Greece[12] does not define the exact number of MPs but provides that they cannot be less than 200 nor more than 300 (article 51 paragraph 1). The principle of national representation applies; MPs do not represent their constituency, they vote according to their conscience (articles 51 paragraph 2 and 60 of the Constitution) and they may not be instructed by their constituents. MPs are expected to represent and safeguard the public interest (article 1 of the Constitution).

19. The Greek authorities indicated that besides the classical situations (death, resignation end of term), the mandate/election of an MP can be annulled by the Supreme Special Court when the conditions for being elected are not anymore fulfilled, or in case an impediment or incompatibility arises (see below the information on conflicts of interest and incompatibilities), when there is evidence that the ceiling on electoral expenses was exceeded or when any other preconditions set forth in political financing legislation are met (article 29 paragraph 2 of the Constitution).

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[11] www.hellenicparliament.gr/en/Vouli-ton-Ellinon/O-Thesmos/; there are **6 standing committees** dealing with culture and education; economic affairs; social affairs; public administration, public order and justice etc. (they discuss issues of their competence, give opinions on appointments to certain public posts, they are informed by the competent Minister or the representative of the agency along with the competent Minister before the conclusion of public contracts of considerable value); **4 special standing committees**: Committee on the Financial Statement and the General Balance Sheet and the implementation of the State Budget; Committee on European affairs; Committee on Armament Programs and Contracts; Committee on the Monitoring of the Social Security System**; Special Committees:** these are established by the Speaker, upon government request in order to elaborate and examine specific bills or law proposals. They function until they reach a final decision on the bills and law proposals for which they were established; **10 special permanent committees:** established at the onset of each regular session, except for the Special Permanent Committee on Institutions and Transparency which is established at the onset of the parliamentary term and operates for the duration of the whole term. The list includes also the Special Permanent Committee on Parliamentary Ethics; **3 committees** are responsible for the Parliament's internal affairs (Committee on the Standing Orders; Committee on Parliament Finances; Committee on the Parliament's Library); **other committees**: for instance the Committee on state-owned enterprises, banks, public utility enterprises and social security agencies, Committees on matters of national significance or general interest, Investigation Committees, Ad hoc Parliamentary Committees for the conduct of preliminary investigations and the Constitutional Revision Committee.

[12] www.hellenicparliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Syntagma/

20. Most parliamentarians come from the sector of independent professions or have a higher level of education, for instance lawyers, doctors, engineers, pharmacists, journalists, diplomats, academics, trade unionists. About 20% are female. Due to increased political uncertainty, members of parliament tend to retain their professional activity in parallel to the parliamentary mandate.

Transparency of the legislative process

21. All governmental "bills" must be made public; they are posted at www.opengov.gr for public consultation. They are set in chronological order and for each one the following are mentioned: date and time where it was posted for public consultation, the date and time of the end (completion) of consultation and how many days are left up to the completion of consultation. A brief introductory note done by the author of the draft explains the aim of the initiative. The comments resulting from the consultation process are equally posted on-line, together with the status of the various consultations. Similarly, Parliamentary "law proposals" are posted on the parliament's webpage upon the distribution to the members of parliament, according to article 86 paragraph 1 of the Standing Orders. Parliamentary law initiatives are accompanied by an explanatory report and a report on the financial implications. Both in case of government or parliamentary initiative, the draft must be accompanied by additional documents assessing the financial impact, how costs are to be borne etc. (article 75 of the constitution). In case of bills, a summary of consultations is part of the accompanying documentation (article 85 para.3 of the Standing orders) and a technical and legal review by the Scientific Council of the Hellenic Parliament[13] must be carried out in case of law proposals. The elaboration and examination of a parliamentary initiative includes two stages/readings that are at least seven (7) days apart; the second reading involves a debate and a vote by article. During the process and until the second reading of the relevant articles, every special permanent committee can express its opinion on any specific issue of the respective bill or law proposal that falls within its competence. Committee composition is proportional to the groups' and independent members' representation in parliament and it is publicly available on the Parliament's webpage. Committee sessions are announced beforehand, on a weekly basis, along with their respective agendas.

22. The parliament has its own Television channel[14] through which the public can follow the work in parliament. As a rule, sittings of the Chamber are public and all sessions are broadcasted, either via live broadcasting or delayed coverage, via the internet and the webpage of the Hellenic Parliament, or alternatively, minutes of the plenary are published on-line. Upon the Government's petition or upon the petition of fifteen members of parliament and pursuant to a majority decision reached in a close meeting, the Parliament may deliberate *in camera*, behind closed doors (article 66 of the Constitution; article 57 of the Standing Orders). The authorities further explain that in the year 2014, live broadcasting was used for all plenary sessions and that differed (recorded) broadcasting was used for the vast majority of committee meetings (about 99% of these). Exceptions include the meetings of the Special Permanent Committee on Parliamentary Ethics when discussing cases on the lifting of immunities, and those of the Committee on National Defence and Foreign Affairs (when ambassadors provide information). In an effort of communication, the meetings of the Parliamentary Committee for the conduct of preliminary investigations are subject to live or differed broadcasting as from this year. Audio and video material of the sessions as well as the findings – reports of the Committees – are available on-line. During on-site discussions

[13] The organisation and responsibilities of the Council are determined by articles 160 et seq. of the Standing Orders; the Council is composed of nine members with an academic background. It has overall responsibility for the coordination of the scientific work in parliament. Article 161 paragraph 4 specifically provides that "To the competence of the President of the scientific council belong: a) the assignment to the members of the scientific council of the review of the relative reports on bills and law proposals"
[14] http://www.hellenicparliament.gr/Enimerosi/Vouli-Tileorasi

with parliamentarians, reference was also made to Law 4048/2012 *on regulatory governance: principles, procedures and means for better regulations*[15]. The law addresses the various ministerial bodies and seeks i.a. to limit legal inflation and to streamline legislation, to increase the quality of regulations, to improve the transparency of legislative processes by timely public consultations and the submission of adequate explanatory documents to the parliament and so on; it also provides for the creation of a special Commission for codification and reform of the Law (Greek acronym: EKAD) responsible for ensuring the implementation of Law 4048 through overall monitoring of the situation, the elaboration of methodologies and for proposing twice a year to the government initiatives to be taken to fulfil the goals. An Office of Good Regulation is also established to implement the overall policy together and in contact with the legislative departments of the ministries.

23. Voting is either open or secret, depending on the case. Votes are personal and arrangements allow MPs to sometimes participate in a vote without being present, for instance when they are abroad and/or when a special majority is required on a given matter under consideration.

24. The GET acknowledges that Greece has in place a legal framework, which regulates the legislative process in the Hellenic Parliament and that the formal stages of the legislative process, as a main rule, aim at openness in the form of direct public access to governmental drafts and to plenary and committee meetings as well as through public broadcasting and on-line access to documents, such as draft legislation, minutes of meetings in Parliament and so on. That said, the GET noted the recent controversies triggered by alleged manipulation of legislation for questionable purposes in relation to corruption-related criminal offences and to the misuse of State resources. These anomalies were reportedly detected only recently, after legislation had been passed. For instance, the Greek Inspector General for the public administration is mentioned in media sources for having identified a number of such dubious legal provisions in 2014[16], some of which have also been pointed at by the Association of Greek Judges and Prosecutors, as well as individual MPs[17]. For instance, the Criminal Code definition of public officials provided for under article 263A was amended on 30 March 2014 in the context of a so-called "omnibus bill" (a large package of reforms) and again shortly after, on 6 May 2014[18], in a way that a series of persons would – reportedly – not be any more prosecutable for corruption-related crimes committed prior to 6 May 2014. Other examples concern Law 4024 / 2011 *on the pension reform, unified state payroll, evaluation, work mobility and other matters of implementation of the midterm plan of fiscal strategy 2012-2015*[19] and Law 3918/2011 *on the health reform and other matters*[20]. On the occasion of a parliamentary hearing in September 2014, the General Inspector has reportedly pointed to the Parliament's own responsibility when passing questionable legislation and to the fact that high-profile politicians continue to benefit from concerted efforts to write-off charges of wrong-doing.[21]

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[15] http://www.ydmed.gov.gr/?p=1803
[16] www.newsbomb.gr/en/story/518486/shocking-document-of-rakintzis-for-the-memorandum-government
[17] www.nytimes.com/2014/10/17/world/europe/immunity-provisions-cast-doubt-on-greeces-efforts-to-fight-graft.html?_r=1
[18] Its paragraph d. assimilates to public official employees from private law entities benefiting from public grants or subsidies – this provision had been replaced in March by a totally different paragraph covering offences involving EU officials, and then the original wording had to be reinstated reportedly to correct an alleged oversight by the government.
[19] One of its provisions concerning the School Buildings Authority reportedly foresees that any costs generated until the adoption of this law that have to do with contracts or decisions of the Board of the SBA regarding individuals who worked for this body, burdening its budget, be it salaries, severance payments of any kinds, benefits and one-off payments, are considered legal.
[20] One of its provisions reportedly foresees that no overpayments disbursed as aids for post-graduate studies to Health Ministry executives between 01/09/2005 and 31/09/2010 are to be pursued. Pending lawsuits are invalid as of the publication of this law.
[21] Reported in the media, for instance: greece.greekreporter.com/2014/09/17/rakintzis-accuses-politicians-for-enjoying-immunity-in-corruption-cases/

25. From these controversies, it is difficult to draw a clear picture as to whether the responsibility for such questionable amendments lies with the government (and the administration), or with the parliament (or both). Individual parliamentarians met on site acknowledged that a much greater volume of information was now available publicly. But most of them expressed severe criticism with the current situation. They deplored in particular an excessive clientelistic law-making approach and the manipulation of legislation, the lack of transparency in the legislative procedure and a culture of not abiding by the rules. They also regretted the limited effectiveness of Law 4048/2012 *on regulatory governance: principles, procedures and means for better regulations* and called for the rapid setting-up with adequate means of the Commission responsible for the overall implementation of Law 4048. The Greek Chapter of Transparency International in the National Integrity Survey released in 2012 has also pointed to a number of factors which could explain why amendments find their way through the adoption process even when they do not serve the general interest and common good. First, the excessive party discipline would take precedence over the parliament's ability to control the government and its draft laws, and the rights of political minorities would be too limited. In addition, controls and consultations involving judicial and advisory bodies[22] are insufficient and the supervision over the inclusion of irrelevant amendments[23] is considered ineffective. That said, the Greek authorities point out that all the necessary review mechanisms are in place, especially the parliament's Scientific Council mentioned in paragraph 21, and that it would contradict the logic of the institutions to involve further scrutiny / opinions on draft laws, for instance by the Council of State; GRECO accepts this explanation but considers that more effective use should then be made of the existing arrangements in the broadest range of situations. In particular, the intensive use of the expedited legislative procedure has also been mentioned as an issue in Greece: it inevitably shortens the time available for the examination and discussion of drafts (one reading instead of two, limited or no debate etc.) but also impacts negatively on the transparency and consultations in such cases[24]. It was also pointed out that amending legislation should spell out systematically and clearly any intended amendments and its consequences; as the GET noted, there are already provisions to this effect in the Standing Orders and/or the Constitution but it would appear that these are not effectively applied. The new arrangements of Law 4048/2012 do not appear to offer sufficient guarantees. Greece clearly needs to address the above concerns. **GRECO recommends to ensure that legislative drafts including those carrying amendments are processed with an adequate level of transparency and consultation including appropriate timelines allowing for the latter to be effective**.

Remuneration, economic benefits and parliamentary resources

26. The average gross annual salary in Greece for 2013 was 18,495 euro[25]. MPs in Greece are remunerated and subject to a 25% taxation rate. They receive other benefits

[22] An objection of unconstitutionality of a draft is a matter for internal debate in parliament. A control of constitutionality is carried out by the Special Highest Court only when conflicting judgments have been pronounced by the Supreme Administrative Court, the Supreme Civil and Criminal Court or the Court of Audit (article 100 paragraph 1e) of the constitution). As the GET was told on site, the State Council cannot be consulted by the Parliament on draft legislation (it can only turn for an opinion to the Central Law Preparatory Committee of the Government), it is consulted in respect of Governmental decrees and other governmental texts only prior to publication, and only Presidential initiatives are subject to a preliminary legality control. The President can refuse to promulgate a law within 30 days of its submission, but the GET was not informed that his possibility had been used in connection with recent controversial laws.

[23] In principle, article 85 paragraph 2 of the Standing Orders, and article 74 of the Constitution prohibit provisions which are irrelevant to the subject-matter).

[24] Article 85 paragraph 3 of the Standing Orders provides that "An impact assessment report and a public consultation report are not necessary when the bill falls within the framework of implementing the special legislative procedures of articles 111-112 and 114-123, or when the bill has been designated by the Government as urgent. In this last case the bill should be accompanied by a short evaluation report."

[25] Source: http://stats.oecd.org/Index.aspx?DataSetCode=AV_AN_WAGE

and support along a set of categories which reflect the travel distance to the Parliament[26]. The following tables provide an overview for the year 2013:

Monthly income and allowances, in Euro				
Category (depending on travel distance)	Gross parliamentary salary (euros)	Travel allowances (euros)	Postage fee (euros)	Office organisation costs (euros)
1	5,705.60	291.00	909.31 (1000 letters per month)	738.88
2	5,705.60	389.00	909.31	935.88
3	5,705.60	486.00	909.31	935.88
4	5,705.60	648.00	909.31	935.88

Attendance fee	75 € per session, recently reduced from 300 € (there are 3 to 4 sessions per month)
Car	Leasing of a car a) up to 1400 cm^3 and up to 750 € per month for MPs from Athens area; b) up to 1800 cm^3 and up to 1200 € per month for other MPs
Housing allowance	1,000 € per month for MPs from outside Athens area, who do not own a property in Athens or in their constituency, respectively
Fully equipped office and its maintenance	Based on a decision of the Speaker of Parliament. The cost cannot be precisely specified since part of the offices provided is located in premises owned by the Parliament.
Up to 2 scientific assistants	Annual remuneration covered by the Parliamentary budget, under their contract depending on their formal qualifications and the kind of employment. Approx. 26,400 € annually per assistant
Up to 4 assistants (max.3 if 2 scientific assistants)	Seconded (and thus employed) by the State, entities of general government or legal persons of public law. For secretarial support of the political office.
Telephone	Mobile telephony exemption up to 150 € per month for one mobile connection and fixed telephony exemption, up to 7,400 € per year for seven or eight telephone lines of their choice, depending on the district where they are elected.

27. The above benefits cease to apply when the mandate ends. All decisions of the plenum and Speaker of Parliament regarding exemptions and benefits as well as remunerations are available on the Parliament's website in the context of the programme "Parliamentary Openness"[27].

28. The GET noted that in recent years, controversies have been triggered by the overall costs of parliament and the untransparent manner in which, for instance, parliamentary staff have been hired. A reform of the recruitment process as well as recent cuts in the overall parliamentary budget, and thus in the MPs' income and allowances, are considered to have improved the situation for the time being[28]. In the GET's view, from the perspective of integrity, the resources described above are theoretically sufficient to limit risks that MPs would succumb too easily to undue solicitations and offers. That said, the on-site interviews showed that additional support which can be provided from outside sources, including businesses, remain a grey area. The GET was told that currently, nothing prohibits a legal entity from paying for or supplying additional support staff and assistants, cars, premises etc. (for individual MPs and political groups). Moreover, as pointed out later in this report (see paragraph 46) the subject of external influence by third parties and lobbyists is not analysed or even discussed in Greece. The GET considers that Greece needs to address this matter which is of particular importance for the prevention of corruption and the preservation of the objective (publicly perceived) impartiality. A recommendation to this effect is addressed hereinafter, as regards gifts and other benefits (see paragraph 35).

[26] Category 1 corresponds to the nearest constituencies, category 4 to the most remote ones
[27] http://diafaneia.hellenicparliament.gr
[28] See also the NIS Survey mentioned in paragraph 11 of the present report.

Ethical principles and rules of conduct

29. Newly elected MPs take a public oath (article 59 of the Constitution) referring to faith in the Country and in the democratic form of government, obedience to the Constitution and laws, and personal dedication in the discharge of parliamentary duties. The standing orders of the Hellenic Parliament (articles 75-82)[29] contain a series of provisions on the behaviour of MPs concerning their assiduity, the discipline of debates and smooth operation of proceedings, compliance with orders of the Speaker, the general behaviour which must be adapted to the importance of the work and the image of parliament, and so on. The Speaker ensures compliance with these rules as regards plenary and committee sessions in case of absenteeism (deduction of indemnities) or inappropriate behaviour (calling to order, deprivation of the right to speak, admonition, temporary exclusion).

30. The integrity of parliamentarians more specifically is not regulated in rules or principles of conduct. In February 2014, the Special Permanent Committee on Parliamentary Ethics, competent for the Standing Orders of the Hellenic Parliament, decided to draft a Code of Ethics, a copy of which was made available to the evaluators. The draft comprises 10 articles: article 1 – general principles: prevalence of the general interest, protection of the Parliaments' prestige, impartiality, courtesy etc.; article 2 – conflicts of interest, including a duty to disclose such conflicts involving the MP him/herself or someone close when they arise; article 3 – gifts and similar favours and benefits: MPs may not accept gifts and other benefits where these could cast doubts about their impartiality in performing parliamentary duties; gifts of a small value are permitted but need to be declared and registered by the Office of the Speaker; article 4 – prohibition of misusing confidential information for one's own benefit or that of a third person; the MP is required to sign a self-commitment to apply this principle for two years after the termination of parliamentary functions; article 5 – additional declaration duties not provided for in Law 3213/2003 (see paragraphs 47 et seq. of this report): MPs must inform the Speaker in writing of their own or their spouse's participation in the capital or any boards of companies, as well as gifts which do not fall under the general prohibition of article 3, when their value exceeds 1,000 euros; articles 6 to 9 deal with proceedings in case of breaches, they provide for a range of sanctions including a warning, temporary exclusion from sittings, a reduction of the remuneration, the possible publication of the measure on the parliament's website. The Committee on parliamentary ethics examines such cases and makes recommendations for disciplinary action to the Speaker. Article 10 states that the code is to become an annex to the Standing orders and that it shall be published on the parliament's website. In the GET's view, it is indeed important that also the public is aware of the conduct expected from members of parliament.

31. The GET was provided with contradictory information as to the likely outcome of the draft existing at the time of the visit, and the ambition of its content. It was said that the draft might be adopted rapidly, within one month. The version provided to the GET, a six-page document, aimed at providing a regulatory and enforceable framework on a limited – albeit important – number of aspects. It provided, under its articles 6 to 9, for an enforcement mechanism including specific sanctions to be applied in case of breaches, under the responsibility of the Speaker of Parliament, assisted by a Committee on parliamentary ethics. More generally, and whatever the way in which the new parliament elected on 25 January will proceed with regard to a code of conduct, it is important that the various new requirements are subject to effective enforcement mechanisms and that the public is informed. The early elections in the end of January 2015, with a different majority, have interrupted the adoption process, as the GET understands. Given the uncertainties about the current status and likely evolution of the draft, the evaluators did not carry out an in-depth analysis. It is important for the Greek Parliament to adopt such a document since ethical principles and rules of conduct for MPs are currently absent

[29] www.hellenicparliament.gr/en/Vouli-ton-Ellinon/Kanonismos-tis-Voulis/

from Greece's regulatory arsenal. Since such a Code would constitute an important novelty, it would need to be printed, distributed, possibly signed/endorsed by parliamentarians, promoted through events and other initiatives. **GRECO recommends i) swiftly proceeding with the adoption of a code of conduct for members of the parliament and establishing a suitable mechanism within Parliament for its promotion, supervision and enforcement and ii) that the public is informed accordingly.**

Conflicts of interests

32. The Greek authorities pointed out that conflicts of interest have been addressed only recently by Law 4281/2014 (Government Gazette A 160/8 August 2014) and defined as "any case in which the obliged person has a personal interest which could improperly affect the performance of his/her duties. A conflict of interest does not exist if the obliged person derives some benefit only as a member of the general public or of a broader category of persons" (article 229 paragraph 1g). The above amendments require parliamentarians (and other subject persons) to submit annually a declaration of financial interests for themselves and their spouses; see the paragraphs 47 et seq. hereinafter on declaratory obligations.

33. The authorities pointed out that the conflicts of interest involving MPs are prevented through constitutional provisions both a) before their election by establishing eligibility criteria (see paragraph 18, condition of nationality, age etc.) and eligibility restrictions provided by article 56 of the Constitution and b) after their election by the enumeration of activities which are incompatible with a parliamentary office, in accordance with article 57 of the Constitution. These articles 56 and 57 are presented in detail hereinafter, under the heading on incompatibilities.

34. The GET notes that the Greek approach seeks to limit risks of conflicts of interest at the outset, through a system of incompatibilities. There are no further rules on how to deal in particular with possible as-hoc conflicts of interest which may arise even when a parliamentarian complies in general with the rules concerning incompatibilities and the annual declaration of interests. The system in place does not entail any consequences regarding the manner in which an MP has to behave in the context of parliamentary work should a conflict arise, for instance declaring a conflict, abstaining or self-withdrawing from participating in a decision. Interestingly, the draft code of conduct which existed at the time of the on-site visit required MPs to disclose a conflict and/or to withdraw from a decision or vote in such a case. An increasing number of GRECO member States are providing for such mechanisms and they deserve to be introduced in Greece as well. Consequently, **GRECO recommends that rules be introduced for the *ad hoc* disclosure when a conflict arises with a parliamentarian's private interests.**

Prohibition or restriction of certain activities

Gifts, donations and other benefits

35. The Greek authorities indicated that this matter is not regulated whatsoever and as indicated earlier (see paragraph 28) the same goes for possible support provided from outside parliament. The GET was sometimes told during the meetings with parliamentarians that any gifts are to be considered as bribes, whilst others refuted this interpretation and/or referred to the fact that in their opinion, the current incrimination(s) of bribery of elected assembly members still have a limited scope (see paragraph 63 hereinafter). Interestingly, the draft code of conduct examined at the time of the visit contains some provisions which aim at dealing with gifts, based on a prohibition in principle and the registration of small courtesy-related gifts. Some representatives of the parliament also referred to another development concerning a general change of approach, from a prohibition-based system to a more permissible and

declaration-based system. In fact, as indicated hereinafter in paragraphs 47 et seq., the system of periodic declarations was extended in August 2014 to also include financial interests: persons serving in an elected public office are now required to declare annually "any financial support from third parties, in personnel or in material resources, allocated in connection with their public activities, given the identity of third parties, if the total value exceeds three thousand (3,000) euros". Overall, the GET is concerned by the lack of a clear logic in the way rules on gifts and other benefits are regulated in Greece, or might be regulated in the near future. The evaluators recall that adequate rules on gifts and other benefits contribute significantly to the prevention of corruption and other related types of misconduct. Many GRECO member States have opted for a prohibition in principle often associated with a duty to return unacceptable benefits, with exceptions concerning courtesy gifts, and a system of declarations for those few categories of benefits which are permissible (invitations, hospitality, protocol-related and other goods which become the property of parliament). Larger forms of support would normally need to fall under the regulations and supervision which are specific to the context of political financing. Thus, **GRECO recommends that adequate and consistent rules be elaborated concerning the acceptance by parliamentarians of gifts, hospitality and other advantages including special support provided for parliamentary work, and that internal procedures for the valuation, reporting and return of unacceptable benefits be developed.**

Incompatibilities and Accessory activities; Contracts concluded with the public authorities

36. The Constitution provides under article 56 for a series of eligibility criteria related to professional activities (prohibition to be nominated or obligation to resign before their nomination), for persons with specific characteristics: in a nutshell, if the candidate holds a public function at State or local level, including in the army or an agency considered as public, s/he must resign prior to submitting his/her candidacy (in the case of academics, their function is only suspended). Further specific provisions address particular categories of official functions. The Constitution also provides under article 57 paragraph 1 for a series of incompatibilities applicable after the MPs' election, which basically concern ownership and/or responsibilities in a business entity which is in a contractual or special relationship with the State, local government agencies and so on (public works, special privileges, exploitation of a public service etc.), which enjoys special privileges or which is involved in major mass media. Until 2008, there was a total incompatibility with any other activity and the current arrangements seek to be closer to the reality. Article 57 refers to secondary legislation for further categories of incompatibilities and for the implementation of arrangements concerning the outcome of contracts under way.

Constitution - Article 57

1. The duties of Member of Parliament are incompatible with the job or the capacity of owner or partner or shareholder or governor or administrator or member of the board of directors or general manager or a deputy thereof, of an enterprise that:

a) Undertakes Public works or studies or procurements or the provision of services to the State or concludes with State similar contacts of a development or investment nature
b) Enjoys special privileges
c) Owns or manages a radio or television station or publishes a newspaper of countrywide circulation in Greece
d) Exercises by concession a public service or a public enterprise or a public utility enterprise
e) Rents for commercial purposes real estate owned by the State

For the purposes of the application of this paragraph, local government agencies, other public law legal persons, state-owned private law legal persons, public enterprises, enterprises of local government agencies and other enterprises of local government agencies and other enterprises whose management the state appoints directly or indirectly by administrative act or by virtue of its capacity as shareholder, are equated to the State. A shareholder of an enterprise falling within the restrictions of this paragraph is every person possessing a percentage of more than one percent of its share capital.

By special law professional activities may be determined, beyond those mentioned in the previous sections, whose exercise is not permitted to Members of Parliament.

Violation of the provisions of the present paragraph shall result in the forfeiture from parliamentary office and in the nullity of the related contracts or acts, as specified by law.

2. Members of Parliament falling within the provisions of the first section of the preceding paragraph must, within eight days from the day on which their election becomes final, select between their parliamentary office and the above stated job or capacities. Should they fail to make the said statement within the above deadline, they shall forfeit their parliamentary office ipso jure.

3. Members of Parliament who accept any of the capacities or activities mentioned in this or in the preceding article and which are characterised as impediments to run for Parliament or as being incompatible with holding parliamentary office, shall forfeit that office ipso jure.

4. The manner of continuation or transfer or dissolution of contracts mentioned in paragraph 1 and undertaken by a Member of Parliament or by an enterprise to which he participated before his election, or undertaken in a capacity incompatible with his office, shall be specified by law.

37. In accordance with article 57 paragraph 2, if a newly elected parliamentarian is in a situation of incompatibility, s/he must choose between the two functions within 8 days following the final election result; otherwise s/he forfeits the function as a parliamentarian *ipso jure*. For parliamentarians already in exercise, article 57 paragraph 3 of the Constitution provides that taking up functions which are either excluded under the eligibility criteria of article 56 or subject to the incompatibilities of article 57 shall – likewise – forfeit the office *ipso jure*. The Greek authorities pointed out that a preventive control is conducted before elections to ensure conformity with the provisions of article 56 of the Constitution and in any case the candidate MP is not entitled to participate in parliamentary elections if he/she fails to previously resolve any existing conflict related to the eligibility criteria.

38. Moreover, MPs and other categories of officials may not be involved directly or indirectly in the capital or management of so-called "off-shore companies" (Article 8 Law 3213/2003 - *Participation in an offshore company*), but also to conduct stock market transactions (Article 32 Law 2843/2000 combined with article 13 of Law 3213/2003).

Article 8 Law 3213/2003 as amended - Participation in an offshore company
1. Members of the Government, deputy Ministers, leaders of the political parties represented in the National or the European Parliament, members of the National and the European parliament, the General Secretary of the Ministerial Council, the general and special secretaries of Ministries, the secretaries-general of regions, the presidents of the enlarged prefectural governments, prefects and mayors, judiciary and prosecutor officers, presidents, administrators, deputy administrators and general managers of credit institutions controlled by the government, as well as the persons referred to in cases i and j of par.1, art.1, shall be prohibited to participate on their own or through surrogates in the capital or the management of offshore companies.
2. Any direct or indirect participation in an offshore company, in breach of paragraph 1, shall be punished with imprisonment of at least two (2) years and a fine from ten thousand (10,000) Euros to five hundred thousand (500,000) Euros.

Article 32 Law 2843/2000: Restrictions on conducting stock market transactions
1. It is prohibited for the members of the Government, Deputy Ministers and General or Special Secretaries of Ministries to conduct stock market transactions. This prohibition does not include cash sales, and purchasing or selling shares of mutual funds.
2. The persons mentioned in the previous paragraph must give to the President of the Capital Market Commission the number of their account kept at the Dematerialized Security System of the Central Securities Depositary. The President of the Capital Market Commission has to monitor the activity of the above accounts and, when he/she notices any transaction in violation of the previous paragraph, this should be reported to the president of the Committee defined in article 19 Law 2429/1996 (Government Gazette 155A).

Article 13 of Law 3213/2003, as amended
Restrictions of making stock market transactions
1. The restrictions of paragraphs 1 and 2 of article 32, Law 2843/2000 (Gov. Gazette 219 A') shall also apply to members of the National and the European parliament, the secretary-general of the Ministerial Council, the secretaries-general of the regions, the presidents of the enlarged prefectural governments, the prefects and mayors, as well as to the persons referred to in cases i, j and k of paragraph 1 hereof. Same restrictions shall also apply to presidents, administrators, deputy administrators and general managers of credit institutions controlled by the state, when acting personally, as well as on behalf of their spouses and minor children.
2. Committees under paragraph 2, article 32, Law 2843/2000 shall be deemed those of paragraphs 1 and 2, article 3, hereof.

39. The GET takes note of the above eligibility criteria and rules on incompatibilities which are meant, among other objectives, to prevent certain conflicts of interest at the outset and to limit risks of conflicts of interest by specific provisions concerning the incompatibility of a parliamentary mandate with business activities which imply i.a. a relationship of supplier with the State or local public institutions. The on-site discussions clearly showed that this system of incompatibilities and other restrictions lacks effectiveness and requires improvements. First of all, secondary legislation as foreseen in article 57 paragraph 4 of the Constitution is reportedly missing to ensure the adequate compliance with the rules on incompatibilities. The same goes for the secondary legislation referred to under paragraph 1 of the same article, which provides for the possibility to subject further activities to incompatibilities. In fact, the GET obtained confirmation on site that accessory activities are not subject to further restrictions and a parliamentarian is thus free to keep or undertake any other function which is not excluded under articles 56 and 57. Issues such as whether a parliamentarian can engage in certain activities which could come close to lobbying – for instance legal and public relations consultancy activities related to parliamentary work, have reportedly not even been discussed; after the visit, the authorities indicated that these are meant to be addressed in the future Code of conduct. Representatives of the Parliament admitted that there are several situations where incompatible professions are carried out through intermediaries for the time of the mandate and they are nonetheless accepted in practice to not disproportionally affect the parliamentarians in case they are not re-elected. Also, despite the most recent improvements made to articles 56 and 57 of the Constitution there are still parliamentarians who resort to the courts to clarify their situation since certain matters apparently remain unsolved.

40. Moreover, the attention of the GET was drawn to controversial debates concerning the restrictions introduced in 2003 for parliamentarians to participate in the funding or the management of an "offshore company". It would appear that these debates may have partly been fuelled by the so-called "Lagarde List" affair[30] but the GET also understood that there are concerns about the effectiveness of these restrictions. The GET noted that article 8 of Law 3213 does not spell out more clearly what the expression "off-shore" refers to. The GET also recalls that there is no commonly accepted international definition either and that for instance the IMF, the OECD or the Tax Justice Network (an advocacy group) use different criteria. As things stand, a number of countries and territories could be concerned in practice, including many which are not traditionally categorised as "off-shore" financial centres. At the same time, the system for the declaration of assets, income and interests now in place requires i.a. to declare any professional activity as well as assets held in Greece as well as abroad, including financial participations (see paragraphs 47 et seq. hereinafter). It is obvious that this apparent contradiction is likely to have detrimental and counter-productive consequences in practice and needs to be reviewed.

[30] Greece's financial police began investigating the 2,000 names on the list in 2013 for alleged tax evasion. But only a handful of cases have so far been resolved amid accusations of foot-dragging, according to media reports - see www.ft.com/intl/cms/s/0/3f284250-d257-11e4-ae91-00144feab7de.html#axzz3YcEiur4b

41. In the GET's view, leaving open the numerous questions referred to above can only diminish the credibility of, and compliance with the system in place, especially in the context of Greece's current efforts to rationalise its legislation and to improve the rules on the integrity of parliamentarians. Therefore, **GRECO recommends i) that the implementation of the rules on professional eligibility and incompatibilities applicable to parliamentarians is properly assessed and that the necessary secondary legislation is introduced accordingly, as already foreseen in particular under article 57 paragraph 4 of the Constitution; ii) that the objectives and effectiveness of article 8 of Law 3213/2003 concerning restrictions on the involvement of parliamentarians (and other officials concerned) in offshore companies be reviewed, in line with the declaratory obligations provided in the same law.**

Employment after cessation of functions

42. This matter is not regulated, for instance in the form of so called "cooling-off" periods which would prohibit the acceptance of positions or responsibilities in businesses with which the MP had contacts. The evaluators were told on some occasions that such rules would be needed in the context of Greece but it would appear that given the leading role played by the executive when it comes to the legislative initiative, post-employment restrictions would be even more crucial for the members of government and other senior members of the executive. The introduction of a code of conduct, adequate rules on gifts and other benefits and rules on how to engage with third parties seeking to influence the parliamentary work, as recommended, would provide Greece with some basic safeguards in the immediate. The GET also recalls that parliamentarians are required to submit a declaration of assets, income and activities for three years after the termination of their mandate. Greece might nonetheless keep under consideration the need for certain limits on the employment after the cessation of parliamentary functions.

Misuse of public resources

43. There are reportedly no specific provisions or mechanisms on the misuse of public resources. Such acts attract the general penalties of the Penal Code (PC) provisions, for instance in case of forgery (article 216), forgery and misuse of fees (article 218), theft (article 372), embezzlement (article 375), fraud (article 386). In accordance with Law no. 1608/1950, article 1 (Government Gazette no. A 301/28-12-1950) on the "Increase of sanctions applied to misusers of public resources", a series of aggravating circumstances are foreseen where the offence adversely affects the public sector or legal entities thereof or certain other legal entities and the benefit achieved or intended by the perpetrator or the damage caused or threatened against the public sector or the aforementioned legal entities exceeds €150,000 (the punishment is then imprisonment from five to twenty years). Where other aggravating conditions occur, especially if the perpetrator repeatedly and for a long period of time committed such offence or if the object of such offence is of a significantly high value, life imprisonment shall be imposed.

44. The GET observes that the above provisions provide some general safeguards against the misuse of public resources. That said, they may not be the most appropriate tools in all cases since the aggravating circumstances – which focus largely on damage to the public sector and legal entities – may not be applicable to situations involving parliamentary resources specifically. The GET noted that the draft code of conduct which was discussed at the time of the on-site visit did not provide for specific standards as regards the proper, responsible, efficient use of means put at the disposal of the parliament. It would be worthwhile for Greece to examine this matter more in detail and to ensure that criminal offences against property and the future rules of conduct for parliamentarians can contribute to increased protection against the misuse of public resources.

Misuse of confidential information; *contacts with third parties*

45. Besides the general provisions of the Penal Code, particularly articles 146 and 147 PC on violation of State secrets, there are no specific rules to prevent the (mis)use of confidential and other information for private gain, or to protect parliamentary work in a broader range of circumstances not strictly concerned with State secrets (e.g. where the MP is a member of a committee dealing with the supervision of secret services' activity etc.). The GET considers that the applicable provisions of the Penal Code are clearly insufficient. Article 4 of the draft code of conduct provided at the time of the on-site visit for rules on the protection of information against misuses for private benefit. This kind of provisions would thus contribute to fill the gaps. GRECO therefore recommends **the development of rules to prevent the misuse of confidential information in respect of a broader range of subject matters which are not necessarily captured by the criminal offence of divulgation of State secrets.**

46. Moreover, there are no rules on contacts with third parties who may try to influence decisions of parliamentarians. The Greek authorities mentioned that a general debate had been initiated on lobbying but the on-site discussions did not reveal the existence of any concrete plans so far on this matter. Various interlocutors met on site referred to the this issue as a problematic area and occasionally, parliamentarians themselves said this was a taboo in Greece, whilst business representatives confirmed the existence of lobbying practices in the country. It is clear that the absence of any regulatory framework on this matter generates important risks for the integrity of parliamentarians. It is thus important for Greece to better protect parliamentary work from external influences and risks of misuse, and to do this in future in respect of the broadest range of activities, not just in connection with the adoption of legislation. **GRECO recommends the introduction of rules on how members of parliament engage with lobbyists and other third parties who seek to influence the parliamentary process**.

Declaration of assets, income, liabilities and financial interests

47. Members of Parliament are required to file a declaration of assets within 90 days after taking the oath or duty, as well as subsequently on an annual basis by 30 June (the financial year covers the situation 1 January-31 December of the previous year) for as long as the mandate lasts and during the three years following the end of the mandate. The declaration system – including the form to be used – is regulated by Law no. 3213/2003[31], as amended in August 2014 by Law no. 4281/2014 on "*Measures for the support and growth of the Greek Economy, organisation issues of the Ministry of Finance and other provisions*"[32]. The content of declarations and submission modalities are described in the above Law and recalled in the form.

48. The duty to declare applies to every member of parliament, who is designated as the "taxpayer" in the form entitled "property assets tax return / statement". Article 2 of Law no. 3213/2003, with the amendments of August 2014, defines the assets to be declared, in particular it refers to assets held in Greece or abroad. The categories of items are reflected in seven individual tables contained in the declaration form. These cover information on a) income from any source during the last three years; b) income from any source in the current financial year (i.e. 2013 for the declarations to be filed in 2014) – a column also refers to "financial aids, loans, heritage etc."; c) real estate property and proprietary rights[33]; d) shares of domestic and foreign companies including bonds, any debentures, mutual funds, financial derivatives; e) financial deposits (at banks, savings banks, other domestic or foreign credit institutions; f) vehicles / vessels

[31] Government Gazette no. A 309/31.12.2003
[32] Government Gazette no. A 160/08-08-2014
[33] Including information on the status, location, surface of land/constructions, year of acquisition, way of acquisition, share of proprietary rights, price paid (or collected)

(land, air and sea); g) participation in any kind of enterprises (including name of business, type of participation, year of commencement, amount of capital contribution and share of participation. The tables require that where relevant, the origin of assets used for the acquisition is mentioned.

49. The form provides for the inclusion of the corresponding information of the spouse and underage children. The Greek authorities indicated that other relatives by blood such as brothers and sisters, by adoption, by affinity in direct line, fiancés etc. – in accordance with the definition of article 13b of the Penal Code – are also to be included.

50. Until August 2014, the declaration form covered only remunerated activities. As from 2015, with the amendments of Law no. 4281/2014 mentioned earlier, all Members of Parliament and their spouses shall declare their participation in any kind of legal entity including non-profit organisations and unions. Article 229 of Law no. 4281/2014, as revised, thus introduces a system of declaration of financial interests which is to be filed on a specific form (to be issued by the President of Parliament in the case of MPs), within the same deadlines as the existing declaration of assets. It shall include for the persons concerned and their spouses: a) their professional activities; b) their participation in the management of any kind of legal persons and companies, associations and non-governmental organisations; c) any regular remunerated activity undertaken in parallel with the performance of their duties, either as public officials or as self-employed; d) any occasional remunerated activity (including writing activity, tenure or counselling) undertaken concurrently with the exercise of their duties, if the total remuneration exceeds 5,000 euros per calendar year; e) their participation in a company or consortium, where such involvement may have an impact on public policy or when it gives to the subject person the possibility of significant influence over affairs of the company or consortium; f) in the case of persons serving in an elected public office, any financial support from third parties, in personnel or in material resources, allocated in connection with their public activities, given the identity of the third parties, if the total value exceeds 3,000 euros; g) any specific financial interest that caused immediate or potential conflict of interests in connection with their duties (this provision is then followed by the definition of conflicts of interest mentioned earlier).

51. Parliamentarians are among the few categories of persons whose declarations are published on the Parliament's website[34]. The declaration of interests is meant in future to be published along the rules applicable to asset declarations (article 12 Law 3213) according to Law 4281/2014. As far as parliamentarians are concerned, until now, asset declarations were filed by hand, sent by postal mail and then scanned for publication on the parliament's website after which they are kept indefinitely by the services of the Chamber where citizens can consult these. The GET obtained diverging information as to the time declarations remain on-line (one or two months); the Greek authorities indicated after the visit that it is actually one month. Law 3213 revised foresees that the Chair of the Committee for the Investigation of Declarations of Assets - Cida shall in future determine in a decision the modalities for the publication of declarations. The Law foresees that sensitive information (address of declarant, vehicle registration numbers, taxation particulars etc.) are not to be published.

52. The GET welcomes the above arrangements for the declaration of assets, income and activities of parliamentarians. They have the potential of better informing citizens about who they vote for, but also of limiting risks of conflicting interests and of elected officials using their mandate for illegitimate enrichment. That said, there is still room for improvement. For instance, the Greek authorities indicated that information concerning a

[34] The following categories of persons are concerned: a) the Prime Minister, b) the leaders of political parties represented in the National or European Parliaments and those parties which receive state funding; c) ministers, Deputy Ministers and replacing Ministers; d) members of the National and European Parliaments; e) financial managers of political parties; f) other: secretaries general of decentralised administrations, prefects and mayors

broad range of relatives needs to be included according to a definition of the Penal Code whereas the forms and the explanatory note examined by the GET only refer to the declarant's spouse and underage children; in GRECO's views, information on the latter would normally be sufficient but if concepts are not interpreted in a uniform manner, this needs to be addressed. Moreover, debts and liabilities are not adequately addressed since only loans subscribed by the declarant are to be mentioned (as a source of income). Loans are also mentioned under a heading entitled "financial aids, loans, heritage etc.": these concepts and the principle of an open list need to be clarified and made consistent with the newly introduced declaration of interests which also covers certain financial contributions. More importantly, the future declaration system will become operational only once the Committee for the Investigation of Declarations of Assets – CIDA has issued the necessary implementing decisions. In the GET's view, it would be important that CIDA generalises the use of IT facilities for the filling and submission of declarations instead of scanning many hand-written documents – as it was done so far by its predecessor – which may be difficult to consult or to check. This would also facilitate the subsequent processing of information. Also, the publication of the relevant declarations is not guaranteed in legislation but depends on the decision of the Chairperson of CIDA who is to decide to publish the data "collectively or not", the duration of on-line publication and so on; this is not a satisfactory solution given the in-built lack of predictability and risk of inconsistent practice. Finally, it is important that the publication of declarations is improved in such a way that information on the relevant declarations remains available on-line not just for one month but for the time of the MP's mandate as well as beyond that period since the duty to file a declaration applies also for three years after the cessation of functions. In view of the above, **GRECO recommends that the system of declaration of assets, income and interests is reviewed so that all pertinent information is adequately reflected, including on debts and liabilities, and to ensure that declarations are accessible to the public conveniently and for an adequate period of time.**

Supervision and enforcement measures

Supervision

Declarations of assets and interests; other requirements related to the integrity of parliamentarians

53. Until recently, MPs and members of government were submitting their asset declarations to a Parliamentary body, namely the Committee for the auditing of Members of parliament and Political Parties[35], which was also examined in the Third Evaluation Round Report on Greece (theme 2 – political financing)[36]. The Committee is assisted by parliamentary services which have a control function and by external auditors hired for the purposes of performing these controls. As indicated in the subsequent chapters of this report on judges and prosecutors, all other public officials concerned submit their declaration to the body acting as Greece's Financial Intelligence Unit (FIU). The above Committee has been responsible for the centralisation, control and publication of declarations; most sanctions being of a penal nature, cases are normally referred to the prosecutor's office. With the recent amendments of Law 3213/2003 introduced by article 225 of Law no. 4281/2014, effective as of August 2014, MPs (but also judges and prosecutors – see subsequent chapters of the present report) will submit in future – starting in the course of 2015 – their declarations to the newly-established Committee of article 3A of Law 3213/2003, i.e. the *Committee for the Investigation of Declarations of Assets* – CIDA. This shall also apply to the declarations of interest for which the forms are expected to become available in the course of 2015, as the on-site discussions showed.

[35] www.hellenicparliament.gr/en/Organosi-kai-Leitourgia/epitropi-elegxou-ton-oikonomikon-ton-komaton-kai-ton-vouleftwn/
[36] www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)9_Greece_Two_EN.pdf

Article 3A of Law 3213/2003 (introduced in August 2014):
Committee for the Investigation of Declarations of Assets

1. The investigation of assets of those mentioned in part a paragraph 1 article 3 shall be assigned to an investigation committee which acts as a special authority. This Committee shall be independent, with administrative and financial autonomy and consists of seven (7) members with an equal number or replacements. Its seat shall be determined by decision of the President of the Parliament.

2. The Committee consists of:
a) a Vice-President of the Parliament as its President, with his/her replacement, to be determined by decision of the President of the Parliament,
b) the 4th Vice- President of the Parliament as a member, with his/her replacement, one of the 5th, 6th or 7th Vice-President to be determined by decision of the Congress of the Presidents of the Parliament,
c) a Judge from the Supreme Court, as a regular member, with his/her replacement, and
d) a Councillor of the Court of Audit, as a regular member, with his/her replacement, determined by decision of the Supreme Judicial Councils or the relevant courts after a request forwarded by the Minister of Justice, Transparency and Human Rights,
e) a Deputy Director of the Bank of Greece, as a regular member, with his/her replacement, determined by decision of its Director, after a request forwarded by the President of the Parliament,
f) the President of the Authority for the Fight against Money Laundering Activities and financing terrorism and control of Declarations of Assets, as a regular member, with his/her replacement,
g) the President of the Permanent Parliamentary Committee of Institutions and Transparency, as a regular member, with his/her replacement.

The judges who are regular members of the Committee work full-time and are exclusively employed for this and enjoy, along with the other members, a personal and functional independence during the performance of their duties.
The Secretary of the Committee shall be an employee serving at the department mentioned in paragraph 4 by decision of the Committee's President.
A decision of the President of the Parliament, published in the Government Gazette, shall determine the compensation for the members who are not employed full-time and exclusively, and for the Committee's Secretary, which may not exceed the limits mentioned in paragraph 2 article 21 Law 4024/2011 (A226).
The budget for the function of the Committee and the department mentioned in paragraph 4 shall be written in the Parliament's yearly budget for the same body. The President of the Committee carries the main responsibility to order expenditure. Financial administration issues shall be regulated by a specific financial charter to be drawn up by the Committee and approved by the President of the Parliament.

3. The President of the Parliament shall decide about the formation of the Committee. Its members who are judges shall be appointed for a period of two (2) years, which can be renewed for another two (2) years. The first time the Judge, member of the Supreme Court, and his/her replacement shall be appointed for a period of three (3) years. The Deputy Director of the Bank of Greece shall be appointed for a period of four (4) years. In the case of general elections for the Parliament, the Committee shall be reformed regarding its parliamentary members within a period of one month after the election of the Presidents of the new Parliament. Any possible promotion of its members who are judges shall not affect their participation. In the case of vacancy, of a regular member the relevant duties shall be exercised by his/her replacement until the time a new regular member is appointed.

4. The Committee shall be supported by a special service classified as a directorate, subject to the President. The President of the Parliament decides about its formation and the appointment of scientific, administrative and assisting staff, the posts, their number and competences. These posts shall be filled also by secondments from the public sector, legal persons of public law and the Bank of Greece, which shall be effected according to article 25 Law 4024/2011 by decision of the President of the Parliament, upon suggestion of the President of the Committee and in the latter case suggestion of the President of the Bank of Greece. The secondment lasts for three years, it can be renewed for equal periods of time and is compulsory for the department from which the employee originates. These employees shall receive the total amount of compensation and benefits from their official positions which are not directly related with the active performance of their duties.

5. The President of the Parliament shall issue a decision published in the Government Gazette to regulate all matters concerning the organization and operation of the Control Committee and the special service.

54. As indicated in the above regulations, CIDA is established as an independent investigation committee composed of three members of Parliament (one of them, a Vice President of the Parliament chairing the Committee), one Supreme Court Judge, one councillor of the court of Audit, a senior member of the Bank of Greece and the president of the authority acting as Greece's FIU. Seven substitutes are appointed similarly. The non-parliamentary members are appointed for a period of two, three or four years depending on the case. The exact composition is to be determined by the Chair of the

Parliament. CIDA is supported by a special service operating under the authority of the Chair and composed of members designated by the Speaker of the Parliament, who may also be seconded by State bodies. Its composition is multidisciplinary. The organisation and functioning of CIDA and the special support service shall be determined in detail by a decision of the Speaker of Parliament. Article 3B of Law 3213 establishes CIDA's basic operational framework:

Article 3B of Law 3213/2003:
Operation of the Committee

1. In order to investigate the declarations of assets, the Committee mentioned in article 3A can request from all declarers all information required for the fulfilment of its duties, which can include pooled information regarding specific types of transactions or activities of natural or legal persons or entities from Greece or abroad, their state funding, private and all types of contributions or grants. The Committee shall evaluate and investigate all information transferred or passed on to it regarding the submission of declarations, possible omissions or incorrectness. The Committee shall have access to all types of documents of any public authority, department of Organization which keeps and processes data, as well as of the system "Tiresias" and can request, with the purpose of controlling and monitoring any cooperation and transfer of data from natural persons, judicial and interrogating authorities, public services, legal persons of public or private law and any type of organization, and they must transfer immediately all relevant data and inform the relevant authorities in case of incomplete cooperation or non-compliance with their obligations according to this law. The rules of secrecy regarding banks, stock market, tax and professional issues are not applicable for the Committee during the execution of its investigations and monitoring, notwithstanding articles 212, 261 and 262 of the Code of Penal Proceedings. In any case and when deemed necessary the Committee shall be assisted in its duties by a Prosecutor of Corruption under law 4139/2013, who shall be proposed by the Prosecutor of Corruption upon a request forwarded by the Committee.

2. The Committee shall investigate all declarations of the persons mentioned in parts 1 to 5 of paragraph 1 article 1, of the General Secretaries of Decentralized Administrations, regional leaders and mayors of towns with more than 50,000 inhabitants and shall conduct sample or targeted checks for the rest of the categories under its competence according to paragraph 3 article 3. During the sample selection the Committee can prioritise specific subcategories of persons based on risk analysis techniques.

3. For the fulfilment of its mission, the Committee can assign the conducting of accounting or financial research or other investigatory acts to auditors and other experts, who shall examine in detail the data of the declarations and the relevant documentation and shall draw up analytical reports submitted to the Committee in order to assist its duties. For the same purpose, the Committee can ask for the assistance of any public auditing authority for a specified matter.

4. After the completion of the investigation, the Committee shall decide whether a case should be filed away or transferred to the relevant Prosecutor with a reasoned and detailed report when the relevant data are valid and sufficient. When there is a case of imputation, then the report shall also be forwarded to the General Commissioner of the State at the Court of Audit and when it is necessary to have tax or other issues further investigated then the report shall also be forwarded to the relevant authorities. When a case is filed away it can be rescued only when it is invoked or there are additional new data which justify the review of the case or it is necessary to cross-examine it with another investigation conducted by the Committee.

5. Investigating proceedings are confidential. During the execution of their duties the President, Members, staff of the Committee, as well as all persons mentioned in paragraph 3 must keep the principles of impartiality and objectivity and refrain from examining cases where there is conflict of interest or cases involving persons related to them. They must ensure confidentiality about any information which comes to their attention during the performance of their duties. This obligation remains in force also after their departure from the Committee or the performance of their duties concerning persons mentioned in paragraph 3. In case of violation of the confidentiality clause then the sanction imposed shall be imprisonment for at least three (3) months.

6. Any person who obstructs in any way the work of the Committee and specifically refuses to provide necessary data to the Committee or the auditors shall be sentenced with imprisonment for at least six (6) months.

7. The President of the Parliament shall render a decision, published in the Government Gazette, to regulate any specific matter pertaining to the object, investigation proceedings, as well as the organization and operation of the Committee responsible to investigate the declarations of assets of the above persons."

55. The GET recalls that in the context of the third round evaluation - Theme II on political financing, the supervision exerted by the Parliament (mainly through the Committee for the auditing of Members of parliament and Political Parties) was assessed as little effective and lacked willingness, independence and a proactive approach. The decision process based on unanimity also had a blocking effect in the context of the excessive party discipline observed in Greece. The information available to the GET during the present on-site visit confirms the previous conclusions also in respect of the supervision of declarations of assets of parliamentarians – it should be pointed out that the supervision of political financing was significantly reformed and improved recently, with Law 4304/2014 (see GRECO's conclusions in the context of the on-going Third Round Compliance Procedure on Greece). A total of 11 cases at the time of the visit, had been referred in recent years to the Prosecutor of the Court of Appeal or to the Court of Audit, mainly due to the absence of declarations, as it seems. Due to the lack of clear leadership and formal duties or persons designated to keep track of cases, no information is available in Parliament or on the prosecution side about the outcome of these cases[37]. The GET was told that some cases are still being processed, most probably for negligent behaviour under article 6 paragraph 3 of Law 3213/2003 (which entails the lowest penalty of a monetary sanction or even dispense of liability – see below under "sanctions").

56. The GET obtained no clarification as to the criteria which would allow to conclude whether a person has "not negligently" omitted to file a declaration or has declared incomplete or incorrect data, or has concealed assets intentionally (which is liable to imprisonment under article 6 paragraph 1). Likewise, there have been no further thoughts as to which situations would trigger proceedings for liability under the neighbouring offence of article 4 of Law 3213/2003 on illicit enrichment (which was then abolished in April 2014) and other provisions more severely sanctioned under Law 3213/2003 – see hereinafter paragraphs 59 et seq. on sanctions. In any event, freezing measures to secure a possible confiscation in case of conviction – which are further mechanisms contemplated under Law 3213 – are not reported either. Law 3213/2003 was thus basically used for the supervision of formal declaratory requirements. The Greek authorities referred after the visit to the statistics contained in the annual reports for 2012 and 2013 of the financial intelligence unit, but these are of a general nature and they do not allow to draw any other conclusion for the purposes of the matters discussed above.

57. The GET considers that the newly established Committee for the Investigation of Declarations of Assets – CIDA needs to show greater determination and to use the means at its disposal to go beyond a merely formal control of declarations. CIDA, like its predecessor, will operate as a non-judicial body authorised to send a case to criminal justice bodies in case of breaches of Law 3213/2003. At the time of the on-site visit, the composition of the CIDA had been decided and it was anticipated that it could operate effectively as from June 2015 once its support service is set up (at the time of adoption of the present report, CIDA has not yet become operational); its future premises, distinct from Parliament, had already been designated. On the positive side, CIDA is provided on paper with guarantees of independence and impartiality, as well as broad investigative powers. Interlocutors of the GET pointed out that it had powers similar to Greece's financial intelligence unit that would enable it, for instance, to cross check data submitted by parliamentarians or to identify undeclared bank accounts and other assets. Articles 3A and 3B of Law 3213/2003 provide for a reasonable approach combining systematic annual checks of declarations from the 5 main categories of elected officials including

[37] The Greek authorities referred to the recent example where a former minister and his wife had been convicted and where property worth 20 million euros had been confiscated. However, leaving aside the limited relevance of the case as it does not concern a parliamentarian, the case was triggered by press articles which questioned a very expensive real estate acquisition by the minister's wife . The GET was told at the time of the visit that this was probably the only case so far where a conviction had been achieved in respect of a leading political figure.

parliamentarians, and sample checks for other categories including judges and prosecutors (see chapters iv and v of this report). On the other side, CIDA will remain under a potentially strong influence of the Parliament, for instance as regards its Chairperson and the appointment of its members, even though a majority of members will not be parliamentarians. CIDA's actual functioning including the decision-making process need to be spelled out in internal rules as well as other arrangement, to be adopted by the Speaker of Parliament.

58. Adequate interaction (including through feedback) with other bodies such as the prosecution service and the Court of Audit – which is responsible for applying administrative fines where the legitimate origin of assets cannot be determined – will need to be secured. Finally, the GET noted that regular public reporting about supervision is something that needs to be developed in Greece, including for such bodies as CIDA. Such an approach would contribute to further developing accountability and leadership as such annual reports may contain assessments of the declaratory mechanism and inter-institutional cooperation. In light of the considerations contained in the above paragraphs, **GRECO recommends that the newly established Committee for the Investigation of Declarations of Assets (CIDA) becomes operational as soon as possible and is provided with all the means necessary to perform its tasks effectively and pro-actively, and that it reports periodically and publicly about the results of its activity.**

Sanctions

Sanctions related to the declaratory and other obligations concerning parliamentarians

59. As mentioned in paragraph 29, the Speaker ensures compliance with the rules concerning plenary and committee sessions in case of absenteeism (deduction of indemnities) or inappropriate behaviour (calling to order, deprivation of the right to speak, admonition, temporary exclusion).

60. Law 3213/2003 *on the disclosure and audit of assets of parliamentary members, public officials and employees, media owners and other categories of persons* lays down a series of criminal sanctions applicable in connection with the declaratory mechanism; the law was amended last by Law 4281/2014 (government gazette A160/8 August 2014) and sanctions apply equally in relation to declarations of assets and to declarations of interests:

Sanctions provided for in Law 3213/2003 as amended by law 4281/2014	
Omission to declare or incorrect declaration (article 6)	- Imprisonment [less than two years] and fine up to €100,000. Aggravating circumstances: deliberate concealment of assets acquired by taking advantage of the position (imprisonment of at least two years and a fine from €10,000 up to €500,000) or where the value of the assets concealed exceed €300,000 (this is a felony, punishable with imprisonment up to ten years and a fine from €20,000 to €1,000,000). - If acts are committed by negligence, then a fine of € 150 to 15,000 shall be imposed and the court may always decide that the circumstances do not warrant a punishment. - Accessories can likewise be punished if they knowingly assist in the submission of incorrect declarations or dissimulation of information by imprisonment from 10 days to five years and a fine of € 150 to 15,000 (article 6, Law no. 3213/2003, as amended by article 227, Law no. 4281/2014)
Obstruction of control; non permissible publication of statements (article 7 and 3B)	Imprisonment for at least 6 months.
Any direct or indirect financial or managerial participation in an "offshore company" (article 8)	Imprisonment of at least two years and a fine from 10,000 Euros to 500,000 Euros (Article 8 Law 3213/2003)

Imputation (article 12)	Monetary (administrative) fine up to the value of assets acquired by the declarant convicted or his/her spouse or underage child(ren) when there is no justification for the legitimacy of those assets; is imposed by the competent department of the Court of Audit.
Other sanctions / measures	- The author of an offence under articles 4, 5 6 paragraphs 1 and 2, and article 8 is deprived of his/her civil rights from 2 to 10 years in case of felony (article 9) - confiscation and seizure (and other temporary measures) can be applied in case of offences under articles 4, 5, 6 paragraphs 1 and 2, and article 8 (articles 9 and article 11)

Criminal sanctions for corruption-related offences under the Penal Code

61. The Greek authorities point out that with the recent amendments to the Penal Code (PC) introduced by Law no. 4254/2014 (effective as of April 2014)[38], the incriminations of bribery and similar offences have been rationalised, both in the public and the private sector. Especially for political persons, the new stricter provisions of articles 159 and 159A PC on passive and active corruption of political officials (subparagraphs O4 and O5, Law no. 4254/2014) now apply, whereas trading in influence is covered by article 237A.

Article 159 - Passive Bribery of political officials
1. The President of the Republic or the person exercising presidential power, the Prime Minister, members of government, deputy ministers, prefects, deputy prefects and mayors shall, if they request or receive, directly or through a third party, for themselves or for another person, any undue advantage of any manner, or accept the promise to provide such an advantage for an action or inaction on their part, future or already completed, relating to the performance of their duties in exercising presidential or executive power, be punished by incarceration [5 to 20 years] *and a fine of EUR 15 000 to 150 000.*

2. The same penalty shall apply to punish members of Parliament, local government councils and their committees if (in relation to any election or vote carried out by the above bodies or committees) they accept the offer or promise of any manner of undue advantage for themselves or for a third party, or request such undue advantage in order to refrain from taking part in such election or vote, or in order to support a specific issue which comes for voting or in order to vote in a certain way.

Article 159A - Active Bribery of political officials
1. The penalties of the previous article shall apply to punish whoever promises or offers any manner of undue advantages, directly or through a third party, to the persons mentioned in that article, for themselves or for another person, for the purposes referred to respectively therein.
2. Heads of business or persons who have decision-making or control power in a business shall also be punished by imprisonment, if the act is not punished more severely under another criminal provision, if they failed to prevent a person under their command or subject to their control from committing, to the benefit of the business, the act under the preceding paragraph.
3. The provisions of Articles 238, 263(1) and 263B shall apply also to the crime referred to in para. 1.

Article 237A - Trading in influence - Intermediaries
1. Whoever requests or receives, directly or through a third party, any undue benefit of any nature, for himself/herself or another person, or accepts the promise to provide such a benefit in return for undue influence which he/she, falsely or truly, claims or confirms that he/she can exert on any of the persons listed in Articles 159, 235(1) and 237(1) for the latter to proceed to an action or inaction relating to the performance of their duties, shall be punished by at least one year imprisonment and a fine of EUR 5 000 to 50 000.
2. The same penalties shall also apply to punish any person who offers, promises or gives, directly or through a third party, any advantage of any manner, for himself/herself or for another person, to a person who, falsely or truly, claims or confirms that he/she can exert undue influence on any of the persons listed in Articles 159, 235(1), and 237(1) for the latter to proceed to an action or inaction relating to the performance of their duties.

62. Concerning the sanctions contained in Law 3213/2003, as amended, the GET is pleased to see that there are tools in place to address all the important requirements related to declarations. That said, the GET is surprised by the care taken by the legislator to provide explicitly under article 6 that the court may always decide that the

[38] LAW 4254/2014 (Government Gazette A 85 7th of April 2014) "Measures for the support and development of the Greek economy in the context of implementation of Law 4046/2012 and other provisions".

circumstances do not warrant a punishment as this is anyway a matter that falls into the judges' own assessment.

63. As for the Penal Code sanctions, the GET refers to the Third Round Evaluation – Theme I on incriminations – and the on-going compliance procedure[39] where the incriminations are examined. It recalls that GRECO's conclusion was that the incriminations concerning members of elected assemblies needed improvement in various respects. The GET takes note of the recent changes introduced in April 2014 and it observes that the country has also introduced provisions on effective regret in accordance with a new article 263B of the Penal Code[40]. During the on-site visit, the GET was particularly concerned by the narrow scope of the new incriminations of bribery involving domestic parliamentarians under articles 159 paragraph 2 and 159A as they are limited to the buying of a vote or election. Most parliamentarians and other practitioners met by the GET considered themselves that the incrimination is too narrow. The GET was occasionally advised that other acts would be captured by the general incrimination of bribery involving public officials under the new articles 235 and 236 PC[41] but the GET noted that a totally different approach is followed to criminalise in a consistent manner offences involving members of foreign and international elected assemblies: in their case, the new article 263A paragraph 2 PC extends explicitly the applicability of articles 235 and 236[42]. The GET was also told that Greek parliamentarians do not consider themselves as regular "public officials" falling under articles 235 and 236 PC. Some parliamentarians, who were aware of GRECO's evaluation work on incriminations, indicated that there were already plans to extend the incriminations of bribery involving

[39] See for instance the last compliance report currently available: www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2014)8_Interim_Second_Greece_EN.pdf.

[40] These are not applicable in connection with acts of bribery and trading in influence involving parliamentarians (under articles 159, 159 A and 237A of the Penal Code)

[41] **New article 235 - Passive Bribery**

1. An official who requests or receives, directly or through a third party, for himself/herself or for another person, any undue advantage of any manner, or accepts the promise to provide such an advantage, for actions or inactions on his/her part, future or already completed, in connection with the performance of his/her duties, shall be punished by at least one year of imprisonment and a fine of EUR 5 000 to 50 000. If the offender commits the act of the previous section by profession or by habit or the unfair benefit is of great economic value, shall be punished by imprisonment up to ten years and a fine of 10.000 to 100.000 euros (as amended by law 4254/2014).

2. If such action or inaction of the offender conflicts with his/her duties, it shall be punished by up to ten years imprisonment and a fine of EUR 15 000 to 150 000. If the offender commits the act of the previous section by profession or by habit or the unfair benefit is of great economic value, shall be punished by imprisonment up to fifteen years and a fine of 15.000 to 150.000 euros (as amended by law 4254/2014).

3. An official who requests or receives, directly or through a third person, for himself/herself or for another person, an unfair property advantage, taking advantage of his/her office, shall be punished by up to three years imprisonment if the action is not punished more severely by another criminal provision.

4. Heads of services inspectors or persons who have decision-making or control power in government services, local government authorities and legal persons referred to in Article 263A, shall be by up to three years imprisonment if the act is not punished more severely, if, by negligence or in breach of a certain official duty, failed to prevent a person under their command or subject to their control from committing an act under the preceding paragraphs.

New article 236 - Active Bribery

1. Anyone who offers, promises or gives to an official, directly or through a third party, any undue advantage of any manner, for himself/herself or for another person, for an action or inaction, future or already completed, on the part of the official in relation to the performance of his/her duties, shall be punished by at least one year imprisonment and a fine of EUR 5 000 to 50 000.

2. If such action or inaction conflicts with his/her duties, the offender shall be punished by up to ten years imprisonment and a fine of EUR 15 000 to 150 000.

3. Heads of business or other persons who have decision-making or control power in a business shall be punished by up to three years imprisonment, if the act is not punished more severely under another criminal provision, if they failed to prevent a person under their command or subject to their control from committing, to the benefit of the business, an act under the preceding paragraphs.

4. With regard to the applicability of this article to acts committed abroad by a foreign national, it is not necessary that the conditions under Article 6 are satisfied.

[42] **New article 263A**

"2. For the implementation of articles 235(1) and (2) and 236, the term public official shall also mean: (…) b) the members of parliamentary assemblies of international or transnational organisations, of which Greece is a member, (…) e) the members of parliaments and assemblies of local authorities of other states.

domestic parliamentarians but the GET got no further confirmation of this. The Greek authorities explained at a later stage that especially among parliamentarians, there might be a lack of understanding of the actual implications of the Penal Code incriminations. They indicated that the concept of public official is broad enough to apply to parliamentarians (as persons who exercise public functions temporarily) for any other act in parliament not related to purely legislative work. The provisions of article 159 and 159A PC – which entail higher penalties – must therefore be seen as an additional set of measures protecting the legislative work. They also explain that the different logics concerning the incriminations of bribery of domestic and of foreign or international assembly members were dictated by reasons of visibility (since most corruption-related offences appear under Chapter 12 PC) and technical difficulties in applying to foreign / international assembly members the same logic as the one applicable to offences involving domestic assembly members. In the GET's view, if MPs are unaware of the applicability of provisions on bribery in relation to their various parliamentary activities and functions, it creates unnecessary risks for the level of integrity. There is thus a clear need to make parliamentarians themselves more aware of the above, as recommended hereinafter concerning awareness, training and advice (see paragraph 69).

Immunity

64. Leaving aside the immunity which protects freedom of speech and vote (irresponsibility), guaranteed by specific provisions, Greek members of parliament also enjoy inviolability. The competent prosecution office has to apply to Parliament to obtain a waiver of the said immunity in order to initiate penal proceedings, in compliance with the procedure described in article 83 of the Standing Orders of Parliament. More specifically, the application needs to be checked by the Supreme Court Prosecutor, then submitted to the Parliament by the Minister of Justice and it shall be recorded in a special book, in the order of submission (articles 61 par. 2 and 62 par. 1 of the Constitution). Then, it is forwarded by the President of Parliament to the *Special Permanent Committee on Parliamentary Ethics*, After a hearing with the parliamentarian concerned, the Committee – provided that the Member of Parliament agrees and upon being called by the President of the Committee at least three days before its session – investigates whether the acts under scrutiny are connected to the political or parliamentary activity of the Member of Parliament or if such proceedings, action or complaint indicate any underlying political motive. If this is not the case, a waiver of immunity is recommended to the Chamber.

65. The Committee may not examine the validity of accusations against a parliamentarian and it is required to draft a reasoned report within the deadline set by the Speaker. The Committee may ask the Government to supply any documents deemed necessary for a decision. The Government may refuse such delivery only on grounds of national defence or national security. Documents provided to the Speaker of the Parliament and subsequently communicated to the parliamentarian under investigation and the Committee (after the closure of the procedure, all documents are to be returned). All requests for waivers of immunity are registered on the agenda of the Parliament Plenum, after the Committee submits a related report. In any case, such applications have to be compulsorily recorded on the agenda at least 10 days before expiry of the deadlines set by articles 61 par. 2 and 62 par. 1 of the Constitution. Should the Committee fail to timely submit its report, the President of the Hellenic Parliament shall appoint among the members of the Committee one special speaker in favour and one against, who shall solely refer to the incidents quoted to the applications requesting for waiver of immunity. The Hellenic Parliament shall decide by show of hands or arousal on the application filed by the Prosecution Office.

66. The parliamentarian under investigation and the chairs of the political groups may always express their views. The provisions of articles 71 and 72 of the Standing Orders apply by analogy. The Parliament shall decide by a secret ballot if requested to do so by

the Speaker or the chair of the parliamentarian's political group. Further requests for a waiver of immunity based on the same grounds are not admissible. The parliament is required to take a decision within 3 months (the deadline is suspended in case of parliamentary recess).

67. The GET noted that a special procedure was instituted in 2011 for the prosecution of parliamentarians, in accordance with Law 4022/2011 *on the trial of acts of corruption involving politicians and State officials, matters of major public interest and other provisions*.[43] Where a case involves a possible felony committed by categories of persons listed in article 1 of the Law, including parliamentarians, the investigation is to be conducted by a President of the First Instance Court – or in exceptional cases by a first instance court judge specially appointed for that purpose by the general chairperson of the court. The investigation is given absolute priority and it must normally be carried out within four months. It is then adjudicated as soon as possible after the closure of the investigation. The case is heard by a panel of three judges of the Court of Appeal. The prosecution is conducted by special prosecutors from the special offices for corruption which exist at the level of the Prosecutor's Office of Athens and of Thessaloniki. The purpose of the Law, stated in the explanatory report, is to speed up the processing and adjudication of such cases. The GET also recalls[44] that in the period of 18/12/2001 to 22/03/2010, the vast majority of requests for the lifting of immunities of MPs had not been met (nor often even discussed in the case of ministers), as earlier figures examined by GRECO had shown. For the period since 2010, the following figures are available concerning parliamentarians:

Period	Registered	Accepted	Rejected	Returned[45]	Not discussed	Transfer to the list for the Ministers' lift of immunity
2010	27	7	16	2	1	1
2011	13	8	5	0	0	0
2012	22	15	3	2	0	2
2013	67	49	16	2	0	0
2014	41	15	21	5	0	0
2015 (up to 5-6-2015)	5	1	1	1	Not discussed yet: 2	--

68. The GET considers that the new criminal procedure introduced in 2011 for the prosecution and trial of elected and senior State officials may be a positive development in the context of Greece. At the same time, the four month deadline applicable to the investigation raises some questions. International experience with the processing of

[43] http://www.nomikosodigos.info/el/guide/legislation/637-ekdikasi-praxeon-diafthoras-politikon-kai-kratikon-axiomatouhon-ypotheseon-megalou-koinonikou-endiaferontos-kai-meizonos-dimosiou-symferontos-kai-alles-diataxeis.html

[44] Information from the Third Round Evaluation Report – theme 2:

Period	**Registered**	**Discussed**	**Not Discussed**	**Accepted**
18/12/2001-2004	For Ministers : 35 For MPs : 46	For Ministers : 0 For MPs : 35	For Ministers : 35 For MPs : 11	For Ministers : 0 For MPs : 4
2004-2007	For Ministers : 70 For MPs : 58	For Ministers : 2 For MPs : 47	For Ministers : 68 For MPs : 11	For Ministers : 0 For MPs : 11
2007-2009	For Ministers : 26 For MPs : 28	For Ministers : 3 For MPs : 24	For Ministers : 23 For MPs : 4	For Ministers : 0 For MPs : 0
2009-22/03/2010	For Ministers : 6 For MPs : 5	For Ministers : 0 For MPs : 2	For Ministers : 6 For MPs : 3	For Ministers : 0 For MPs : 0
TOTAL	**For Ministers : 137** **For MPs : 137**	For Ministers : 5 For MPs : 108	For Ministers : 132 For MPs : 29	**For Ministers : 0** **For MPs : 15**

[45] For instance where elections have taken place in the meantime (before the discussion of the request) and the person involved has not been reelected (he/she is no longer an MP).

corruption-related offences shows that judicial assistance from third countries often needs to be sought in practice for high-profile cases and it is not uncommon that financial information, for instance, becomes available only at a late stage. At the time of discussion of the present report, the Greek authorities have assured GRECO that the four-month period set for the investigation is not a fixed deadline but rather a period for reporting on progress, which can be extended as necessary, even if the above information becomes available only after one year. As for parliamentary immunities, in comparison to other States, the practice in Greece has for instance led a research body of the European Parliament to observe in October 2012, in the light of figures for the period 2000 – September 2011 that "Greece would seem to stand out as most restrictive"[46]. In its NIS 2012, the Greek chapter of Transparency International has commented on the phenomenon as the result of "unreasonable solidarity between fellow politicians". During the present on-site visit, the GET was told in parliament that 90% of requests for the lifting of parliamentary immunity are met in practice nowadays and that the situation had improved in practice in recent years. The updated figures in the above table for the period 2010 to 6 June 2015 do not confirm this and for certain years (2010, 2014) the number of denials to lift the immunity still outweighs significantly the number of requests approved. Given the important variations, it would appear that the excessively restrictive practices identified in 2012 have not completely disappeared and that the immunities still constitute an obstacle for the effective prosecution of parliamentarians suspected of being involved in criminal offences. The variations observed suggest in particular that the Greek parliament has still no adequate criteria or procedure for the lifting of immunities. As indicated earlier, article 83 of the Standing Orders provides that the immunity is to be maintained, as a rule, where the offence is connected to the political or parliamentary activity of the MP: this can be interpreted broadly and it has the potential to prevent any criminal proceedings except for acts committed in private life. In fact, according to the NIS 2012, even in such circumstances, the immunity has at times not been lifted. In view of the foregoing and with reference to Guiding Principle 6 of Resolution (97) 24 of the Committee of Ministers of the Council of Europe on the twenty guiding principles for the fight against corruption, **GRECO recommends that determined measures be taken in order to ensure that the procedures to lift the immunity of parliamentarians do not hamper or prevent criminal proceedings in respect of members of parliament suspected of having committed corruption related offences, notably by defining clear rules and criteria in that area.**

Advice, training and awareness

69. The Greek authorities refer to the fact that all the information related to the rights and obligations of members of parliament are mentioned in the Constitution of Greece and the Standing Orders, which can be found on the Parliament's website: http://www.hellenicparliament.gr. The information gathered by the GET shows that up until now, there have been no measures taken – as part of a policy or even punctually – to make MPs aware of their obligations and of the conduct expected from them, nor for them to obtain advice, or to inform the public on such matters. The GET was informed that there was even some hostility to training activities from certain categories of parliamentarians. Moreover, as pointed out in paragraph 63, there is a need to inform parliamentarians about the actual implications of criminal law provisions on corruption-related offences. The GET was informed of plans to organise for first-time-elected parliamentarians a two to three days event to present the code of conduct, once it is adopted, and to explain to participants the arrangements for the declaration of assets. Such initiatives are indeed important and they should be designed in a way as to reach all parliamentarians. The parliament could on this occasion proclaim its (new) policy on integrity and inform the public about it. **GRECO recommends that as part of a**

[46] "Non-liable? Inviolable? Untouchable? The Challenge of Parliamentary Immunities – An Overview", page 20 http://www.europarl.europa.eu/pdf/oppd/Page_1/Parliamentary_immunities_final_web_EN.pdf

proclaimed integrity policy, efficient internal mechanisms be developed to promote, raise awareness of, and thereby safeguard, integrity in Parliament in a collective effort (e.g. training, discussions on ethics and integrity, awareness of bribery and other corruption-related offences) and on an individual basis through confidential counselling in problematic situations.

IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES

Overview of the judicial system

70. The court system in Greece is based on the separation between the administrative courts[47], the ordinary civil and criminal courts (the structure and jurisdiction of which is partly based on the importance/seriousness of cases)[48] and the military courts. There are no distinct commercial, labour or social security courts and such cases fall under the normal jurisdiction of civil courts. Certain first instance and appeal courts have special formations to hear cases involving juveniles and sometimes special departments have been established for specific matters such as for instance on maritime disputes (in the first instance and appeal court of Piraeus) as well as Community trademark-related matters (under EU regulations) and intellectual property (in Athens and Thessaloniki).

71. There is no Constitutional Court in Greece. The Constitution enables every judge to establish that the constitutional rights of a person have been breached by a law which contradicts the constitution: article 87 paragraph 2 lays down that judges are not obliged "to comply with provisions enacted in violation of the Constitution". The Supreme Special Court presented hereinafter has jurisdiction to decide on the constitutionality of a draft bill (article 100 paragraph 1e).

72. Cases are adjudicated by a single judge or a panel of judges, depending of the importance / seriousness of a case. For instance, in civil matters (labour and collective bargaining disputes, compensations claims, divorce cases etc.):

	Single-member	Multi-member
Magistrate Court	Disputes up to €20,000 euro	---------
Court of First Instance	a) Disputes between €20,000 and €250,000 and all lease disputes; and b) Appeals against judgments issued by Magistrate Courts	Disputes over €250,000
Appeal Court	Appeals against judgments rendered by Single Member Courts	Appeals against judgments issued by Three-member Courts of First Instance

73. In criminal matters, the situation is the following:

	Single-Member Court	Three-Member Court	Five-Member Court
Court of First Instance	a) It hears only misdemeanours for which the law provides a minimum sentence of less than one year	a) It hears misdemeanours for which the law provides a sentence of imprisonment of over one year b) Appeals against judgments issued	----------

[47] The administrative courts resolve disputes between government departments and members of the public and rule on the lawfulness of administrative acts and the validity of public contracts. The administrative court system includes the administrative courts of first instance, the administrative courts of appeal and the Council of State (*Symvoulio Epikrateias*). Competences of the Council of State include the annulment of enforceable acts issued by administrative authorities for power abuse or for violation of law, the cassation of final judgments rendered by ordinary administrative courts and the hearing of substantial administrative disputes brought before the Council of State.

[48] Civil courts are the Magistrate Courts, the Courts of First Instance, the Appeal Courts and the Supreme Court. Penal courts are the Courts for petty offences, the Misdemeanours Courts, the Appeal Courts, the Mixed Jury Courts and the Supreme Court. The Supreme Court (*Areios Pagos*) acts as the instance of cassation, ruling on points of law without examining the merits of cases.

	of imprisonment or a fine or both B) Appeals against judgments issued by the Court for Petty Offences	by the Single-Member Court of First Instance	
Appeal Court (hearing of misdemeanours)	----------	A) At first instance, it adjudicates appeals against judgments issued by the Three-member Misdemeanours Courts	----------
Appeal Court (hearing of felonies)	At first instance, it adjudicates all felonies apart from those for which the law provides life imprisonment.	a) At first instance, it adjudicates all felonies referred to in article 111 of the Hellenic Code of Criminal Procedure (including also corruption offences) b) It adjudicates appeals against the judgments rendered by the Single-member Appeal Courts of Felonies	It hears appeals against judgments issued by Three-member Appeal Court of Felonies

74. Judges and prosecutors form a consolidated body of "magistrates" subject to a system of recruitment, career, rights and obligations and so on which is largely identical for all. As a rule, Greece uses only career judges (and prosecutors); they are divided into civil, penal and administrative judges, with the exception of the most serious crimes which are tried before the mixed Jury Courts (MJC) to the Court of Appeal, and heard by a panel of seven judges, of which three are professional judges and four are jurors. These courts hear serious crimes such as homicides, rape, sexual abuse of children etc. In special circumstances, so-called "assistant magistrates" can be appointed temporarily as support staff to the courts of first instance or to the public prosecutors offices. The Greek authorities explained during the visit that these are young judicial professionals who have gone through the recruitment procedure but have not yet completed their initial training.

75. The Greek Constitution also provides for a series of special courts: the Court of Audit[49], the Supreme Special Court and the Special Court for Mistrial Cases**.** According to article 98 of the Constitution, the competence of the **Court of Audit** pertains mainly to auditing the expenditure of the State and other public and local agencies as well as other entities determined by law, auditing important contracts involving the State or similar entities, auditing the accounts of public accounting officers and local government agencies, providing expert opinions on pension laws, hearing cases related to the audit of public accounts and to the liability of civil or military public servants. The **Supreme Special Court** (article 100 of the Constitution) is a non-permanent body competent to examine any objections regarding electoral violations, disputes as to the incompatibility or removal from office of a member of parliament, the final adjudication in case of conflicting judgements (issued by the courts and the administrative authorities or by the Council of State and the ordinary courts, or, finally, the Court of Audit and the other courts), the constitutionality review of any law or the interpretation of a legislative provision when conflicting decisions have been rendered by the three highest courts (Supreme Court, Council of State, Court of Audit), the final adjudication as to whether a rule of international law has achieved customary status and thus supersedes any other domestic law (article 28(1) of the Constitution). A decision of unconstitutionality is binding for all other courts even if it does not repeal the law or provision concerned – the latter just looses its effectiveness in the Greek legal order. It is composed of the President of the Supreme Administrative Court, the President of the Supreme Civil and Criminal Court and the President of the Court of Audit, four Councillors of the Supreme Administrative Court and four members of the Supreme Civil and Criminal Court chosen by lot for a two-year term. The Court is chaired by the President of the Supreme Administrative Court or the President of the Supreme Civil and Criminal Court, according to seniority. The **Special Court for Mistrial Cases** (article 99 of the Constitution)**:** the meaning of mistrial is not defined in the Constitution but in a law, which implements

[49] http://www.elsyn.gr/elsyn/root_eng.jsp

article 99 of the Constitution of Greece. Mistrial is the damage caused to a person by a judge at any trial, during the performance of his/her judicial functions, since it is the result of fraud, gross negligence or denial of justice by the judge. This court is composed of the President of the Supreme Administrative Court, as President, and one Councillor of the Supreme Administrative Court, one Supreme Civil and Criminal Court judge, one Councillor of the Court of Audit, two law professors of the law schools of the country's universities and two barristers from among the members of the Supreme Disciplinary Council for barristers, as members, all of whom shall be chosen by lot. The Constitution provides that "no special permission" is required to institute a lawsuit. The GET was informed that such lawsuits are quite common but since have so far they been obviously ungrounded, there have been no cases. The GET also recalls the existence of the **Special Court of article 86 of the Constitution**, which hears in first and last instance cases involving serving or former members of the Cabinet or Undersecretaries for criminal offences that they committed during the discharge of their duties. The Court is composed of six members of the Supreme Administrative Court and seven members of the Supreme Civil and Criminal Court (and chaired by the most senior of them). The regular and alternate members of the Special Court are chosen by lot, after the prosecution has taken place, by the Speaker of the Parliament in a public sitting of the Parliament.

76. The following table gives an overview of the principal courts:

	Ordinary courts	Administrative courts	Military courts	Other courts
Total number	1 Supreme Court (*Areios Pagos*) 19 courts of Appeal 63 ordinary civil and criminal courts, 155 Magistrate courts (*Eirinodikeia*) for misdemeanours 41 courts for petty offences (*Ptaismatodikeia*)	1 State council 9 Administrative Courts of Appeal 30 Administrative courts of First Instance	1 Court of Review 6 courts-martial (land forces), 4 navy courts-martial, 5 air force courts-martial	Court of Audit Supreme Special Court Special Court for Mistrial Cases Special Court of article 86 of the Constitution

77. There are about 4,000 judges and prosecutors currently serving in Greece. There has been a gender balance in recent years when it comes to candidates to judicial functions and magistrates in exercise. The proportion of female magistrates is currently on the rise, including in top positions, and they represent a majority in the prosecution services.

78. Greece also has the institution of investigating judge responsible for conducting the main investigation in respect of felonies and after the public prosecutor has initiated the criminal prosecution (in case of serious crimes and often also misdemeanours) but also main investigations in case of serious crimes. According to article 29 of the Criminal Procedure Code, this is not a permanent function, as investigating judges are always appointed ad hoc from among the members of the court. Corruption-related offences are normally part of the crimes for which the investigation is conducted by the investigating judge. The role of this judge is to collect all the evidence (which is then considered by the judicial council deciding if a person has to stand trial), to carry out the inquiry in rem, to examine witnesses, inspect places, order expert opinions as well as any measure impacting on the freedom of the suspects (pre-trial detention, special surveillance measures such a phone-tapping etc.). The Investigating Judge is appointed by the plenum of the court from among the judges who have at least five years of experience.

The principle of independence

79. Fundamental principles are provided in the Constitution and in Law 1756/1988 on "The Code on the Organisation of the Courts and the Status of Judges". The Constitution (article 87 par. 1) guarantees the judges' functional and personal independence. In the discharge of their duties judges are subject only to the Constitution and the laws, they cannot be obliged to comply with provisions enacted in violation of the Constitution, they are independent from superior courts and other judges and the principle is reflected also in specific legislation: "any directive, recommendation or proposal to a judge for a substantial or procedural matter in a particular case or group of cases is not permissible and it shall constitute a disciplinary offence" (article 19 paragraph 3 of Law 1756/1988). Judges also enjoy life long tenure (article 88 paragraph 1 of the Constitution) and can only be revoked upon a decision of the plenary session of the competent supreme court under which they fall (Supreme Court, State Council, Court of Audit): a) in case of final conviction for a fraudulent crime to a freedom deprivation of more than three months, or b) for a serious disciplinary offence or sickness or disability or service incompetence, according to the provisions of law.

80. A judge may be transferred either upon his/her request or *ex officio* in order to cover a service need, on the basis of a reasoned decision[50]. This secondment cannot exceed one year and the decision may be appealed before the competent supreme judicial council (see below); the claim is then examined by the plenum in presence of the judge concerned. Greek practitioners met during the visit referred to a few other situations where a judge can be transferred *ex officio*, for instance when that person has spent too many years on the same post, but there is always a possibility for the judge concerned to challenge such decisions.

81. The Greek judiciary has a strong component of self-administration, with the existence of three supreme judicial councils, one for each of the main branches of the judiciary (the special courts established in accordance with the Constitution may also have their own judicial council). One is thus attached to the Supreme Court for civil and penal cases, one to the Council of State and one to the Court of Audit. Their composition is determined by articles 68, 72 and 78 of Law 1756/1988. The executive and legislature are not represented in the composition of these bodies. Their members (which varies between 7 and 15) are appointed by lot for a period of one year. These councils decide on appointments, promotions, transfers and secondments of judges in the respective branch of the judiciary (and prosecutors, as far as the Judicial Council of Civil and Penal Justice is concerned).

82. The GET welcomes that a number of precautions have been taken in Greece to ensure the independence of the judiciary. Issues concerning independence seem to arise mainly in respect of the most senior positions in the judiciary: the President and Vice-President of the Council of the State; the Supreme Court President, Vice-President and Prosecutor; the Court of Audit President and Vice-President and General Commissioner (see also paragraph 87). As discussed hereinafter, in various respects these positions are subject to a potentially strong influence of the executive. When it comes to their appointment to such posts, the judges are to be elected by the Council of Ministers for a maximum term of four years (see paragraph 87), upon a proposal by the Minister of justice. The strong political role of the government combined with the absence of a specified term, means that these senior functions of judges and prosecutors are theoretically replaceable at any time, along the changes in parliament and government

[50] Rendered by a) the Supreme Court President, in case of civil and penal court judges, b) by the Supreme Court Prosecutor, in case of prosecutors, c) by the General Commissioner of the State of the ordinary administrative courts, in case of ordinary administrative judges, d) by the President of the Court of Audit, in case of Assistant Judges and Rapporteur Judges of the Court of Audit, e) by the Court of First Instance President, in case of Magistrate Judges (article 51 of Law 1756/1988).

which have a four-year mandate[51]. At the time of adoption of the present report, the Greek authorities have provided assurances that in practice, appointments to these senior functions coincide with the last few years of the professional career of the magistrates concerned. They thus leave these functions upon retirement, not as a consequence of a replacement decided by the executive. More importantly, the initiation of disciplinary proceedings is the exclusive responsibility of the Minister of Justice. At the same time, the most senior positions imply important responsibilities within the judiciary, such as in the special courts of articles 86 and 100 of the Constitution including in respect of the control of other judges and members of the executive (see the procedure involving the special court of article 86 of the Constitution, discussed in paragraph 126). One of the Vice-Presidents of the State Council met during the visit was also the Head of the Inspectorate for Administrative courts, the President of the Special Court for Mistrial cases and a member of the Supreme Judicial Council for administrative courts. Civil society bodies and the media have reported about controversies triggered by the way judicial practitioners are sometimes publicly criticised by senior political figures when they deal with criminal cases involving such officials. This suggests that undue pressure exists in practice and may have important repercussions at many levels. Finally, the GET recalls the importance of preserving the confidence of the public and the respect of the judiciary and the legal profession. To achieve this, professional, non-political expertise of the peers should be involved in the selection process. For the same reasons, the Minister of justice should not have the exclusive responsibility for the initiation of disciplinary proceedings. **GRECO recommends i) revising the method of selection concerning the most senior positions of judges and prosecutors so as to involve the peers in the process and ii) to consider amending the modalities for the initiation of disciplinary proceedings in their respect.**

Recruitment, career and conditions of service

Recruitment

83. All judges in Greece belong to a professional group, to which they enter following a public competition and training at the National School of Judges (NSJ)[52], and within which they pursue their career. There is no other way through which one can be admitted to the judiciary. Admission to the NSJ is preceded by open competitions announced by the Minister of Justice, Transparency and Human Rights for the three judicial branches – administrative justice, civil and penal justice and public prosecution services – indicating the total number of posts to be filled for each speciality. Candidates must meet the qualifications and conditions required under articles 36 to 38 of Law 1756/1988 relating i.a. to nationality and age, legal training, not having been deprived of civil rights, not having been convicted for certain offences listed in the law etc. Candidates submit in their application file the supporting documents including on the absence of relevant criminal record. The two-stage entrance examination involves written and oral tests, organised annually in May and September, and it is carried out by a five-member committee which is composed separately for each direction. Successful candidates are included in a table of final results by order of merit and can then enter the School up to the number of vacancies (200 in 2013, 77 in 2014). The training, which entails both theoretical and practical phases, lasts 16 to 18 months, after which the new magistrates become assistant judges or assistant prosecutors for a trial period (see below). During that time, they are monitored, accompanied and appraised by their supervisor. The NSJ is also the body responsible for the organisation of in-service training of judges and prosecutors during their career.

[51] The website of the Supreme Court (Areios Pagos) shows that over the last 13 years, the successive chairpersons have occupied this function for a period between one and three years.

[52] The NSJ was created in 1994 as a legal person governed by public law, supervised by the Minister of Justice. It enjoys administrative and financial autonomy but its current funding is provided at 90% by the EU as the GET learnt on site. It is based in Thessaloniki, with a branch responsible for in-service training operating in Komotini.

Career and conditions of service

84. The salaries in the judiciary are unified and determined by a scale based on the basic monthly income of € 2,067 – earned for instance by a first instance court judge, an assistant prosecutor at the first instance Court, a rapporteur to the Council of State, to which a multiplying factor is applied. For instance it is 1.7 (= € 4,134) for the President of the Council of State, the President and Public Prosecutor of the Supreme Court, the General Commissioner of Court of Audit, the General Commissioner of State of Ordinary Administrative Courts), and it is 0,85 (= € 1,654) for assistant judges. Additional benefits in the form of a 4% salary increase every two years (up to a total of 60%), allowance for the holding of a post-graduate degree, family and library allowances, allowance for special service constraints and some representation allowance (for a few top positions).

85. After the completion of the two-year trial period, the supreme judicial council decides, after a request forwarded by the Minister of Justice, on the appointment of assistant judges and assistant prosecutors as judges of courts of first instance and deputy prosecutors respectively. This decision is to be reasoned and takes into account a general assessment report from the Council of appeal judges, the relevant reports written by presiding judges and supervisors, as well as any other data concerning general ethics, scientific efficacy, qualitative and quantitative evaluation of work including efficiency. When the Council decides that an assistant judge should not be appointed as a judge of court of first instance or deputy prosecutor, because of lack of ethics or incompetence, then it shall also issue a reasoned decision to irrevocably dismiss them from the service, which is effected by a presidential decree (articles 65 to 76 of Law 1756/1988 with similar provisions for the three branches of the judiciary).

86. Law 1756/1988 (articles 49 et seq.) regulates the appointments, transfers and promotions for the various categories of magistrates. As a rule, any assignments to judicial functions must be performed through a presidential decree issued following a decision of the competent supreme judicial council. Promotions up to the office of the Councillor of State, the Supreme Court Judge and Vice-Prosecutor, the Court of Audit Councillor and Vice-commissioner, the ordinary administrative courts General Commissioner and Vice-commissioner as well as the appointment as a Vice-commissioner of the State of the ordinary administrative courts, are done by a presidential decree following a decision of the competent SJC triggered by a query from the Minister of Justice; the query must be issued within two months after a vacancy is identified or a new post is to be filled.

87. Promotions to the highest posts (President and Vice-President of the Council of the State, the Supreme Court President and Vice-President and Prosecutor, the Court of Audit President and Vice-President and General Commissioner) result from an election by the Council of Ministers, upon a proposal of six names by the Minister of Justice. A non-binding opinion is issued by the Conference of Presidents of the Parliament on this proposal. Article 90 of the Constitution provides for a maximum appointment of four years to the most senior functions: "The tenure of the President of the Supreme Administrative Court, of the Supreme Civil and Criminal Court and of the Court of Audit, as well as of the Public Prosecutor of the Supreme Civil and Criminal Court and of the General Commissioners of administrative courts and of the Court of Audit may not exceed four years". Overall, the situation is not entirely satisfactory and a recommendation has been issued earlier in this respect (see paragraph 82).

88. Magistrates retire at the age of 65, or 67 for the most senior positions, in accordance with the Constitution.

89. The GET recalls that, as indicated under the chapter on supervision, all judges and prosecutors undergo an annual professional evaluation (designated in Greek as "inspection") performed by a member of the highest corresponding court, designated by

lot for one year. Article 85 of Law 1756 lists the criteria to be taken into account during those inspections and the categories of reports to be drafted on both the qualitative and quantitative assessment of work done by a judge or prosecutor, including their personal and professional qualities[53]. The GET observes that this constitutes in fact a general appraisal system. As it was pointed out, the results are to be taken into account for career evolutions, even if additional qualifications and personal development through attendance of on-going training are not taken into account for career progress. The GET welcomes the existence of such a periodic assessment mechanism even though there are certain issues raised from the perspective of the quality and effectiveness of supervision (see the subsequent paragraphs 107 et seq. in this respect).

Case management and procedure

Assignment of cases on the list

90. The assignment of cases within the competent court is first done according to the possible specialisation of judicial formations within that court and the possible involvement of the investigating judge[54]. The subsequent assignment of cases is based according to the internal rules: every court or public prosecutor's office as well as General Commission Offices of the Court of Audit and the ordinary administrative courts shall draw up statutes and rules of procedure, which are supplemented, modified or replaced, when it is deemed necessary due to service purposes (article 17 of Law 1756/1988). For instance in civil matters, in the major Courts of First Instance (Athens, Piraeus, Thessaloniki) judges are divided into divisions organised according to an act of the Head of the Court of First Instance (for instance Commercial Division, Property Law Division, Family Law Division etc.). Each division shall judge cases falling under the competence of Single-member and Multi-member Court of First Instance. By way of exception, injunction measures (in case of imminent risks) are heard following a drawing among serving judges. In the courts of first instance of the region where there are no special divisions, cases shall be assigned without subject matter distinction throughout the respective hearing dates of the Single-member and Multi-member Court of First Instance. Civil courts hearings (Single-member and Multi-member) are predefined on particular days every month. The cases are defined according to the order of their lodging before the Secretariat of the Court of First Instance. A particular number of cases are defined for each day and these cases are recorded in the case list (docket). The Head of the Court of First Instance shall define the monthly schedule of service and at major Courts of First Instance each judge shall undertake the judgment of an entire docket (i.e. all cases recorded in the docket) for that day. The Rules of procedure of each Court of First Instance define which judges are going to judge every docket and the rule followed is the rule of rotation.

91. The on-site discussions showed that in practice, cases are distributed randomly (by lot) to the judges after the case has been registered, and sometimes upon the decision of the Chair or longest serving judge depending on the respective competences

[53] The main report covers a) their morality, courage and character, b) their scientific expertise, c) their critical capacity and perception, d) their diligence, willingness to work and service performance (both qualitative and quantitative), e) their ability to administer justice, render judgments and direct the whole procedure; in case of prosecutors, their ability to administer justice both at preparatory and at the hearing phases, as well as their ability to express their recommendations and the provisions issued and to properly use the oral speech and f) the judge's behaviour in general, and especially towards the audience, as well as his/her social profile. Furthermore, a special report is to be produced on the management of cases, including compliance with legal deadlines, and the handling of certain specific cases in particular (those involving interrogations or temporary arrest warrants).

[54] See paragraph 78; investigating judges are appointed ad hoc and they are responsible for felonies only, which are transmitted in practice by the prosecutor and after the initiation of the criminal prosecution. Where a court has several serving investigating judges, as it is the case in the First Instance Court of Athens, there is a specialisation. Cases are allocated by the President of the Court. In the Court of Appeal, it is the plenary which distributes the cases between investigating judges.

of the chambers,. The Greek authorities have assured the GET that no one can find out in advance (or choose) who will be the judge in a given case.

Reasonable time

92. Normally, the relevant procedural texts (e.g. Code of civil procedure, Code of Administrative Procedure) and other pertinent provisions for the Council of State and the Court of Audit provide for specific timelines for proceedings and undue delays may constitute a disciplinary offence in accordance with Law 1756/1988 (article 91 paragraph 2e): this provision further specifies that "(to determine) *Whether a delay is justified or not, the severity of the case, the judge's rank and experience, his/her overall workload, as well as his/her personal and family conditions shall be taken into consideration. In any case, a judgment rendered by a civil court within six (6) months from the hearing of the case shall not be unjustified, unless for cases where specific deadlines are prescribed by the Greek Code of Civil Procedure. A delay shall be considered unjustified when the case file is discharged from or returned by the judge that deals with such case due to his/her failure to render a judgment within eight (8) months from the hearing of the civil or administrative case*". In addition, article 49 paragraphs 9 and 10 of the same law foresee that delays have negative consequences for promotions: "*9. A judge who unjustifiably delays to publish and attest his rendered judgments, as well as a prosecutor that unjustifiably fails to process the case files assigned may not be promoted, unless the competent council specifically justifies the grounds for such exceptional promotion. A delay is unjustified when: a) judgments are not published within a six-month period from the hearing thereof or within special deadlines specified by the Greek Code of Civil Procedure, or the Greek Code of Administrative Procedure or the competent special provisions for the Council of State and the Court of Audit, b) in case of interim reliefs, when judgments are not rendered within a month, c) in case of attestations, when such attestations exceed the one-month period, d) in case of prosecutors when processing and return of case files delay more than four (4) months. 10. A judge shall not be eligible to promotion if he/she has been imposed with a disciplinary penalty for delays at the overall execution of his/her duties at least twice within the last seven years*." Finally, in accordance with article 44 paragraph 11, a judge can be forced by his/her superior to deal with a backlog of cases: "*A judge may not fully or partially use his/her judicial or regular leave, since – as regarded by the judge's superior – there is a high risk for substantial delay in rendering a judgment or a ruling of an emergency case or any other emergency judicial action. Should a judge delay in rendering a great number of judgments related to cases already heard or delay in processing the case files assigned to him/her under the terms provided by law, regulations or the plenary session of the court or the prosecution office, then such judge may be obliged, under a deed drafted by the head of the competent court or a deed drafted by the head of the immediate superior court or prosecution office to deliver the stipulated number of drafts or case files within the time period of his/her judicial leave. In any case, a judge shall be obliged – and be subject to a disciplinary control - to have processed any abeyances before the beginning of the new judicial year.*"

93. The GET noted that backlogs remain a major issue for the Greek judiciary. Various reasons have already been put forward in recent years to explain the situation: the complexity of procedures and legislation, insufficient infrastructures (including the absence of an IT-network based working environment), inadequate management of the justice system and so on. The GET was told that the drafting of judgements takes much time and that judgements in Greece tend to be excessively long and detailed, as a result of a strict application of a constitutional requirement[55]. A member of one of the three judicial councils has issued guidance to counter the phenomenon in the administrative courts; others could follow this example. The GET notes that the rules mentioned above,

[55] Article 93 paragraph 3 of the Constitution states that "Every court judgment must be specifically and thoroughly reasoned…"

to prevent undue delays, focus excessively on the last phase of proceedings i.e. the rendering of verdicts: actually, the GET was informed of cases which have been filed in 2008 but for which a hearing date had not even been set at the time of the on-site visit. Such cases were detected only during inspections, which raises further questions about the actual role of the presiding bodies and persons of the courts when it comes to the workload management and daily supervision. The GET was told that the assessment of workload management is primarily the responsibility of appraisers during the periodic inspection; but these assessments do not make use of concrete performance and other indicators as regards the work of judges and prosecutors (average time of proceedings, conviction rates etc.); the GET points out that such indicators are increasingly common in the current management of justice systems in other countries. The setting up-of an IT-system would support the rapid processing of data in this area.

94. As mentioned earlier in respect of career and conditions of service – see paragraph 89, additional qualifications are not expected to be acquired through training in order to be appointed to senior judicial functions; developing or increasing managerial competences is thus left to individual initiative. Moreover, giving some disciplinary responsibility to supervisors such as the power to issue warnings, could foster their authority and role. It would also appear that the widespread discontent generated by the backlog among citizens involved in proceedings, is leading to further problems deriving from the absence of clearly identified channels to be used for lodging a complaint[56]; the current situation creates risks of interventions which could be problematic. It is important for Greece to have clearly defined and streamlined channels for complaints, that would be complied with by all institutions and complainants; it is thus important that adequate information is made publicly available (through an information campaign, the dissemination of information posters etc.).

95. The GET recalls that a situation such as the one described above presents additional risks for the integrity of the judiciary. A number of criminal cases are reportedly time barred as a result of excessive delays. In the light of the above, **GRECO recommends i) that procedural rules provide for further guarantees against delays before the stage of the decision and that channels for complaints against undue delays be clarified, streamlined and properly communicated to the public; ii) that the role of judges and prosecutors with managerial functions be strengthened as regards caseload management.**

Transparency

96. The Constitution (article 93) guarantees the publicity – as a rule – of court proceedings both for the hearings and the rendering of judgements, but courts may in exceptional cases (preservation of public morality, special reasons calling for the protection of the private or family life of the litigants) hold meetings *in camera*. Such situations are detailed in procedural rules such as those of the Code of Criminal Procedure (for instance articles 329-330 on offences against sexual freedom) and of the Code of Civil Procedure (for instance articles 799 and 800 on assisted procreation and on adoption).

[56] The GET could not get a clear view of the channels to be used for citizens to complain about excessive delays of proceedings and so on. Each supreme judicial body (the Supreme Court, the Council of State and the Court of Audit) has an inspectorate: this is normally the body to which one should turn to, to lodge a complaint, according to the President of the Supreme Court and the Prosecutor General to that court, met by the GET. In practice, it would appear that citizens still address directly the above top officials. It was also acknowledged that a citizen could also turn to the chairperson of a lower court in case of complaints against a member of that court The GET also heard from the Special Parliamentary Committee on Institutions and Transparency that citizens do turn to its members as well for certain complaints and that the Committee can then address the Supreme Court to speed up cases, in particular (they had currently several cases of that kind). At the same time, the two professional associations of judges and prosecutors met by the GET also acknowledged a role in receiving complaints.

Ethical principles and rules of professional conduct

97. The fundamental values concerning the judiciary and conduct expected from judges are enshrined in the Constitution: principle of independence of judges mentioned earlier (articles 87 and 88), prohibition of manifestations in favour or against a political party by a magistrate (article 29 paragraph 3) and so on. Further standards and principles are established in Law 1756/1988 on "The Code on the Organisation of the Courts and the Status of Judges" including on the oath to be taken when an assistant judge is newly appointed to a court as well as when s/he becomes a permanent official (this is done at a public ceremony): "I swear to keep faith in my Country, obedience to the Constitution and the laws and to discharge conscientiously my duties".

98. Greece has not adopted a comprehensive set of rules of professional conduct in form of a uniform code of conduct for judges / prosecutors. The GET was informed that the adoption of codes of conduct for members of government and members of parliament were the immediate priorities and that such a code might be discussed at a later stage for judges and prosecutors. The GET considers that such a code would usefully complement the existing standards by providing an opportunity to regulate matters which still need to be specified (for instance on gifts) and by providing practical guidance and illustrations as to problematic situations. For the time being, case-law on disciplinary proceedings is not compiled and made available to practitioners. The recommendation addressed hereinafter in favour on periodic reporting on the functioning of the judiciary would allow to make available disciplinary case-law. Moreover, there are qualities which are particularly valued in the Greek judiciary such as courage and character. These are among the values subject to the Greek system of inspections and practitioners met by the GET explained that they relate to the ability to resist to general pressure as well as to inappropriate influences. These and other general values, as well as their various implications, could be compiled and explained in a code of conduct which could also address other desirable improvements discussed in this report for instance concerning rules on gifts and other benefits – see paragraph 103 et seq. hereinafter. In view of the above, **GRECO recommends that a set of clear standards of professional conduct and integrity, accompanied by explanatory comments and/or practical examples be introduced for judges and prosecutors.**

Conflicts of interest; declaration of assets, income, liability and interest

99. Judges and prosecutors are subjected to the declaratory obligations of Law 3213/2003, as amended, which were already presented in the previous chapter on parliamentarians. They are thus required to submit an annual declaration of assets which includes (with the amendments of August 2014) also interests. The items to be declared are the same and the declaration duty applies with regard to the situation of the last three years, as in the case of parliamentarians. The GET refers back to the chapter on parliamentarians. The main difference with the regime applicable to parliamentarians is that declarations submitted by judges and prosecutors were, until recently, received and checked by another body and that they are not published; but as pointed out by GRECO, it is the parliamentarians' situation and nature of activities which require maximum transparency.

Challenge or withdrawal

100. Greek procedural laws provide for a series of circumstances (existence of marital or family ties, risk of bias or other conflicting situations etc.) in which the member of a court must withdraw or can be recused by a party, for instance under article 52 of the Code of Civil Procedure, under article 7 of the code of Administrative Procedure, under articles 14 et seq. of the Code of Penal Procedure. The penal procedure rules are obviously the most detailed and they refer also to the need to preserve the objective impartiality. Where a ground for recusal arises, the matter must be brought to the attention of the chair of the

court or panel, which shall decide as to what to do. Safeguards are in place to prevent the paralysis of a court, for instance challenging a whole panel or a portion of it which would prevent any quorum for a decision, and so on. Law 1756 / 1988, article 91 paragraph 2 g) makes it a disciplinary offence not to disclose a possible impediment and not to comply with the applicable rules.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities; Post-employment restrictions

101. Pursuant to article 89 of the Constitution and article 41, Law no. 1756/1988, the function of a magistrate is exclusive of any other remunerated activity or any other occupation except academic and training activities. They may also participate in "councils or committees exercising competences of disciplinary, auditing or adjudicating nature and on Bill drafting committees, provided that this participation is specifically stipulated by the law." In practice, these are such bodies as, for instance, the Data Protection Authority, the Competition Committee and so on, which make ample use of both serving and former judges. Besides the above general prohibition, magistrates cannot be assigned administrative duties but they can represent the country in international organisations. They also enjoy freedom of association with the exception of those which impose some level of confidentiality on membership and activities, as well as unions (which is a general restriction for all public servants) as the GET was told on-site. Magistrates can nonetheless exert arbitration functions (under the terms of article 871A et seq. of the Code of Civil Procedure), in which case they can keep part of the remuneration (35%), while the remaining amount is to be distributed among all the other judges of the competent court and the judicial funds. Moreover, they cannot be appointed by name, but only based on the court where they exert judicial functions or the rank they occupy (e.g. president of court X), provided that the person under such rank is not known at the conclusion of the arbitration agreement. Finally, there are no post-employment restrictions in Greece for former judges (and prosecutors).

102. The GET took note of the occasional concerns expressed by civil society about the above accessory or post-employment occupations in other State bodies such as independent agencies but also reportedly in the service of political figures, or in arbitration procedures. It considers that they do not warrant further consideration given other priority areas identified in the present report but Greece may need to bear these issues in mind.

Gifts

103. Greece has no specific rules on gifts concerning judges (and prosecutors), which would determine what can be accepted, what must be disposed of and how, or returned and so on. The replies to GRECO's evaluation questionnaire refer to the provisions on passive bribery concerning public officials in general (article 235 of the criminal Code – see paragraph 61 et seq.) and involving judicial officials (article 237[57]), as amended last in April 2014. These incriminations refer at present to the concept of "undue benefit". The explanatory report to the legislative amendments of April 2014 states that gestures of a symbolic or minor financial value which constitute a social gesture to express praise or gratitude – the definition of which shall be subject to legal theory and to case-law in particular – are exempted from liability under the provisions on bribery.

[57] Article 237 PC: If any person required under the law to perform judicial duties or an arbitrator requests or receives, directly or through a third party, for himself/herself or for another person, any undue benefit of any nature (as amended by article 32 of Law 4258/2014, Government Gazette A 94/14.4.2014), or accepts the promise to provide such an advantage for an action or inaction on his/her part, future or already completed, relating to the performance of his/her duties in the administration of justice or resolution of dispute shall be punished by imprisonment and a fine of EUR 15 000 to 150 000.

104. The GET recalls what has already been said earlier as regards rules on gifts for parliamentarians, in particular the fact that criminal law on bribery (and trading in influence) and preventive regulations on gifts follow a different yet complementary objective. There may well be situations, for instance, where even gifts and other benefits of a small value or which can still be socially widespread (including hospitality and invitations) can be problematic from the perspective of policies on integrity, including the need for objective (perceived) impartiality. The Greek authorities explain that Greek judges do not consider it permissible to accept gifts as a result of the impeccable behaviour expected from them by their status. The GET believes that adequate clarification should then be provided in the future Code of conduct recommended earlier**.**

Contacts with third parties, confidential information

105. Contacts with third parties are not regulated but the Greek authorities nevertheless point out that any contact with a judge outside the official procedures are prohibited. The (mis)use of confidential information falls under article 91 f) of Law 1756 / 1988 which provides that the infringement of "service confidentiality" constitutes a disciplinary offence. The GET considers that clearer rules would deserve to be introduced as regards third party contacts. These could be spelled out in the context of the introduction of a code of conduct, as recommended earlier (see paragraphs 97-98). As it was pointed out, certain fundamental values such as personal "courage" and "character" are likely to be concerned also with third party contacts, external influence and so on.

Supervision and enforcement

Supervision of declarations

106. As indicated in the Chapter concerning members of parliament, the system has experienced a phase of instability. Until 2011, judges and prosecutors were required to file their declaration with a special committee of the Supreme Court. After 2011, and at the time of the on-site visit, judges and prosecutors were required to submit their declaration to the Greek financial intelligence unit, namely the Hellenic Anti-Money laundering and Counter-Terrorist Financing and Sources of Funds Investigation Authority. The FIU's third sub-unit – the Source of Funds Investigation Unit (SFIU)[58] is dealing with these declarations. The SFIU is composed of the President and two board members of the Authority. The president is an acting Public Prosecutor to the Supreme Court appointed by a Decision of the supreme judicial council and serves on a full –time basis. At the end of each year, the SFIU submits a report of activity to the Institutions and Transparency Committee of the Hellenic Parliament, as well as to the Minister of Finance and to the Minister of Justice, Transparency and Human Rights. Up to now, all declarations were submitted by postal mail. As from 2015 in practice, with the amendments to Law 3213/2003 and the consolidated system of declarations under the responsibility of a unique body (article 3A and 3B) introduced in August 2014, judges (and prosecutors) will submit their declarations to the Committee for the Investigation of Declarations of Assets. The GET was surprised to hear during the visit that even in respect of judges and prosecutors, there had been several cases where declaratory obligations have not been complied with, due to a lack of awareness especially about the post-employment declaratory duties. . Since the system is exclusively based on criminal law sanctions, in case of breaches, the file is sent to the prosecution service. The SFIU was presented to the GET as much more willing and effective in performing this supervisory function, than the special committee to the Supreme Court which had this responsibility until 2011. At the same time, the SFIU has kept or gathered no information whatsoever on the outcome of its cases. Moreover, the six cases sent to prosecution concerned the absence of declaration or their inaccurate content and they were all treated as negligent behaviour (paragraph 116 hereinafter). This clearly shows that improvements are desirable in the

[58] http://www.hellenic-fiu.gr/index.php?lang=en

leadership and commitment of supervisory bodies. Since the supervision is at present consolidated under the Committee for the Investigation of Declarations of Assets, the GET refers to the findings and recommendation made in the chapter on parliamentarians.

General Supervision

107. As indicated in paragraph 81, the justice system in Greece is largely self-managed with the existence of several judicial councils responsible for the career of the various categories of magistrates. The chairpersons of the courts exert general administrative supervision, but no disciplinary responsibility nor formal control or appraisal responsibility as regards the work of individual magistrates. This is the task of special inspection councils which mirror the logic of the above-mentioned judicial councils. They are established in accordance with article 87 paragraph 3 of the Constitution and articles 80 et seq. of Law 1756/1988. All judges up to the rank of appeal court judge or the assistant prosecutor at appeal court are inspected by the respective Inspection Council (Council of Inspection of Civil and Criminal Justice, of the Council of State, of the Court of Audit and of Ordinary Administrative Courts) on an annual basis. The inspectors shall draw up a special, detailed and specifically reasoned report for each judge of their region. The following shall be assessed in this report: a) the integrity, the courage and the character, b) the scientific excellence, c) the judgment and the perception, d) the conscientiousness, the diligence and the professional (qualitative and quantitative) efficiency, e) the capability in the administration of justice, the drafting of judgments and the administration of the procedure and regarding the prosecutors the capability of administration of justice, both in pre-trial proceedings and the procedure before the hearing as well as the capability of drawing up a proposal, an order and the oral skills and f) the judge's behaviour in general and before the hearing as well as his social presence" (article 85 of law 1756/1988). The inspected person may lodge an appeal against the inspection report and he/she may ask revision of the report or a new judgment (article 87 of Law 1756/1988).

108. Where a disciplinary matter arises, the plenary of the court deals with the case and takes a decision on the initiation of possible proceedings. For first instance judges, the court with appellate jurisdiction is competent. For appeal level judges, the highest court (Supreme Court, Council of State) is competent. As regards misconduct involving members of the three highest courts, it is the Minister of justice who has the power to take a decision on the commencement of proceedings. The Minister also retains the ability to initiate disciplinary proceedings against any judge (article 99 paragraph a. of Law 1756/1988). Disciplinary cases are also examined by a system involving the peers. The Supreme Disciplinary Council, composed of seven professional judges and two academics[59], is responsible for deciding on proceedings involving members of the Council of State and the Supreme Court, the Supreme Court prosecutor and vice-prosecutors, the Court of Audit members, among other senior judges. Disciplinary sanctions shall be imposed on other judges by the disciplinary boards of the competent courts (Disciplinary Board of the Council of State, Disciplinary Board of the Supreme Court and Disciplinary Board of the Court of Audit, articles 90 to 107, Law no. 1756/1988). These are composed of seven or nine members depending on the case, all designated by lot for one year from among the judges. Sanctions are imposed in public hearings and a disciplinary judgment may be appealed by the Minister of Justice and the magistrate concerned.

[59] The Supreme Disciplinary Board (article 91 of the Constitution) consists of the President of the Council of State, acting as Chairperson, of two vice-presidents or councillors of State, two vice-presidents of the Supreme Court or Supreme Court Judges, two vice-presidents or councillors of the Court of Audit and two professors of the Faculties of Law of the Greek Universities, as its members. The Board members shall be appointed by lot among those with at least a three-year experience at the competent supreme court or faculty of law as professors. Members belonging to the court for which the Board is asked to rule may not participate in the Board. When the Board rules on a disciplinary offence committed by a member of the Council of State, then, it shall be chaired by the President of the Supreme Court.

109. It is quite obvious that the Greek judiciary is strongly self-administered, which is an important factor from the perspective of independence. But at the same time, its overall management involves a multiplicity of bodies including no less than four judicial councils and four disciplinary councils and an equivalent number of inspection councils, not counting similar bodies attached to the special courts provided for by the Constitution. Moreover the composition of these bodies is mostly determined by lot and the mandate is annual. The GET considers that this institutional logic is not the most adequate to ensure a reasonable level of consistency, continuity and stability, and the development of appropriate experience which are much needed in the area of career management and disciplinary matters. For instance, the GET is not convinced that a system of general supervision whereby appraisers change every year would allow for appropriate follow-up on individual situations where, for instance, improvements are expected or where the repetition of certain anomalies could be indicative of underlying integrity-related or other issues. Moreover, inspectors designated by lot may not necessarily be prepared or have the required level of motivation that would ensure that the system is consistently and effectively applied. In fact, as the GET was told on-site, no specific measures have been taken (e.g. guidance documents, training) to support the inspectors as there is an assumption that they are sufficiently experienced given their level of seniority. Greece may wish to look further into these matters.

110. As the on-site discussions also revealed, there is a risk that ultimately, no one can be held to account for the overall functioning and performance of judicial institutions, including the implementation of reforms in the area of integrity. The GET believes that a consolidation of the various bodies into a single high judicial council responsible both for the career of judges and prosecutors and for disciplinary matters would bring a number of benefits. A general self-administered inspection body could be responsible for major enquiries and the performance of audits, whilst appraisals could be left to the immediate supervisor of the respective judge or prosecutor. A unique judicial council could of course sit in different formations. It would mainly be composed – as is currently the case – of persons selected from among the judges and prosecutors in exercise, but the members would be appointed for a longer term and they would be supported by a permanent secretariat. **GRECO recommends that consideration be given to consolidating the various judicial bodies currently responsible for the career, professional supervision and discipline of judges and prosecutors.**

111. Greece is also lacking a system which allows to assess the effectiveness of supervision against the actual situation and general functioning of the courts and prosecution services. Over many years, the Greek authorities have pointed out repeatedly that the absence of a proper IT system interlinking judicial institutions made it impossible to keep and publish data on an on-going basis concerning the functioning of the judiciary, the average duration of proceedings, the quality of criminal law response, the management of case load and so on (the absence of a proper data collection and retention system was already pointed out by GRECO in 2001 and in 2010[60]). The situation has not improved much (practitioners must bring in their own equipment) and the GET gathered similar information with regard to the functioning of supervisory mechanisms applicable to the system for the declaration of assets and interests, and concerning disciplinary aspects in general. The Greek authorities refer to the publication of statistical data and other information on the website of the largest courts in Greece as well as of the public prosecutor's office in Athens. As far as the GET can take from these, the information is not kept in a consistent manner along the same format/methodology. For some of the institutions, it would also appear that the last information available dates back to 2010 or even 2004/2005. The authorities also refer to the fact that since 2012, a legal requirement exists for the Ministry of Justice to compile and to publish on its

[60] See the Third Evaluation Round Report on Greece, Theme I – Incriminations, paragraph 114: www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)9_Greece_One_EN.pdf

website, on a quarterly basis, some consolidated data[61]. This is a first step in the right direction since for the time being, important data is not made available, for instance on the activity of the prosecutorial bodies, and the data does not show possible differences across the country. Nor is the data analysed and commented. The GET considers that the publication of a periodic report on the state of the justice system would allow to consolidate all relevant data and information, to increase transparency in the general functioning of the courts and prosecution bodies and to hold the institutions – including those entrusted with supervisory responsibilities – accountable for their work and for following-up on the outcome of cases. For instance, the GET learned from civil society research work[62] that the annual inspections are not performed systematically according to the law and that they lack effectiveness. Periodic reports would serve policy-making purposes by providing objective bases for the assessment of the actual needs and of alleged lack of infrastructures and means, which may ultimately present certain risks for the effectiveness of supervision and judicial integrity. It is striking that in disciplinary matters, magistrates who are sanctioned for instance for important unjustified delays do win their appeal on grounds such as the excessive workload and a lack of means, as the GET was told on site. The publication of information on the content of disciplinary cases would also be important. At the moment, no such information is published and made available to the public and practitioners, reportedly for data protection reasons. Such information would support the training and awareness-raising efforts concerning judges and prosecutors, and would provide progressively a consolidated set of standards and institutional memory likely to assist the inspectors in their task. It would also inform the public about the conduct expected from magistrates. The GET recalls that other countries have managed to publish information in an anonymised way. Greece could draw inspiration from these. The principal of periodic public reporting, for instance through consolidation of data and assessments from the various branches of the judiciary, the prosecution services and the Ministry of Justice was also highly supported by various interlocutors met on-site. In the light of the considerations contained in the above paragraphs, **GRECO recommends that periodic public reports be introduced on the functioning of the courts and the prosecution service, which would include adequate statistical data, information and analyses concerning in particular the management of the workload and disciplinary cases.** GRECO also wishes to observe that it would be great benefit for Greece if an information technology network was established, interlinking the various courts and prosecution offices.

Sanctions and immunities

112. Sanctions applicable in respect of declaratory obligations have already been presented in the chapter on parliamentarians. Law 1756/1988 (articles 80 et seq.) provides for the following types of disciplinary sanctions: a) a written reprimand, b) a fine ranging from two-day earnings up to total three-month earnings, c) a temporary dismissal from ten days to six months and d) a permanent dismissal. These sanctions are imposed according to the gravity of the misbehaviour, the circumstances of the case etc. They are all imposed by the respective disciplinary board except the permanent dismissal which can only be pronounced by the plenary of the supreme court of the judicial branch of the judge concerned.

113. The prosecution of disciplinary offences is mandatory, based on the evidence available to the person responsible for initiating disciplinary proceedings; discretion is only applicable in case of a possible reprimand.

114. Disciplinary files are kept by the services of the relevant court to which an inspectorate is attached and which has responsibility for disciplinary cases. A copy is also

[61] Concerning the Supreme Court, the ordinary civil courts, the Council of State, administrative courts (overall number of pending and new cases, backlogs etc.) as well as data on corporate insolvency. See http://www.ministryofjustice.gr/site/el/ΟΡΓΑΝΩΣΗΔΙΚΑΙΟΣΥΝΗΣ/ΣτατιστικάστοιχείαΝ40462012.aspx

[62] See Transparency International Greece NIS 2012

systematically kept by the Ministry of Justice in the personal file of the magistrate. Notices concerning reprimands are deleted from the file after one year. Given that the logic of inspections is based on a system of rotation of inspectors appointed for one year, it would make sense that information on reprimands be kept for a longer period of time (for instance three years).

115. Judges and prosecutors do not enjoy any form of immunity that would imply specific protection against criminal, civil and other proceedings, apart from the specific disciplinary regime.

Statistics

116. Statistics or consolidated typologies of cases are not available concerning disciplinary cases and sanctions applied for general requirements, or in relation to those dealing with integrity and related obligations. Concerning specifically declaratory obligations related to assets, the Hellenic FIU informed the GET that before 2011, there had been very few cases concerning judges and prosecutors. In the period for which the FIU has been responsible for the receiving and checking of declarations, there had been 28 cases of targeted audits in respect of judges or prosecutors: five of these concerned undeclared assets and one case involved a situation of inaccurate declaration most likely linked to bribery: after lifting the bank secrecy, suspicious assets were identified and the case was referred to prosecution for a possible offence under article 6 paragraph 3 of Law 3213 i.e. lack of declaration or declaration of incorrect data committed by negligence. The FIU has no information on the outcome of these various cases.

Advice, training and awareness

117. The information gathered by the GET shows that training is basically the task of the National School for Judges (NSJ). During the initial training for new recruits, specific courses on Ethics and Principles of Judicial Behaviour are organised systematically in the form of six 3-hour lectures in each of the three disciplines. The practitioners acting as teachers are invited to present concrete cases and concrete examples. In-service training takes place of events which may last up to three days and can be organised several times per year, with different modules. The GET was told on-site that the NSJ actually intended to organise in future two in-service training sessions per year, one of which would be devoted to judicial ethics and a meeting on corruption is planned in 2015 for participants from all judicial branches. The practitioners can obtain advice on integrity rules from their more senior colleagues or from the existing professional associations[63]. No specific awareness-raising policy concerning integrity and corruption-related matters has so far been developed for judicial practitioners and the general public; it is intended to codify the relevant integrity provisions at some stage and to make them publicly accessible.

118. The GET considers that more consistent efforts need to be done in the above fields. The plans to put in place two in-service training sessions per year including one fully devoted to ethics deserve support. When it comes to certain requirements and mechanisms examined in the present report, such as the annual declaration of assets and interests, interlocutors confirmed that many practitioners do not comply, reportedly for being unaware in particular of the fact that the declaration duty still applies for three years after the cessation of judicial functions. **GRECO recommends that training and awareness be developed on integrity-related issues both in the context of initial and of on-going training for judges and prosecutors.**

[63] The Association of Greek Judges and Prosecutors, the Greek Association of Public Prosecutors, the Association of Administrative Judges, the Association of Audit Judges, the Association of Council of State Judges.

V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS

Brief overview of the public prosecution service

119. As indicated earlier, prosecutors and judges form a single body of "magistrates" (or judicial officials). The Greek Code of Penal Procedure dates back to 1951 and with the introduction of the Constitution of 1975, judges and prosecutors were equated under the above concept. Therefore, much of what has been said in respect of judges also applies to prosecutors, who also fall under the Law 1756/1988 mentioned earlier. There are some differences. Prosecutors enjoy life-long tenure guaranteed to all magistrates by article 88 of the Constitution but the guarantees of independence of article 87 are specific to judges. That said, article 24 paragraph 1 of the above law on the "independent judiciary" provides that "the prosecution Office is a judicial authority independent from the courts and the executive power".

120. The Prosecution is organised as a unified hierarchical structure under the direction of The Supreme Court Prosecutor. The Prosecution acts uniformly and indivisibly, meaning that each prosecutor may act as a representative thereof. Prosecutors have to execute the orders of their superiors but in the execution of their duties and the expression of their views, they may act independently, abiding by the Law and their own consciousness. Orders, general instructions and recommendations in relation to the exercise of their duties can be issued by: a) the Supreme Court Prosecutor to all prosecutors of Greece; b) the Courts of Appeal Prosecutor and the Courts of First Instance Prosecutor to all prosecution officials subjected to the jurisdiction of the Courts of Appeal Prosecution and the Courts of First Instance Prosecution respectively (article 24, Law no. 1756/1988).

121. The Ministry of Justice may issue general informative directives to the public prosecutor offices regarding the implementation of EU legal instruments concerning the judicial cooperation of Member States in the fields of preventing and fighting organised crime, drug trafficking, international terrorism, human trafficking and crimes against children, money laundering, cybercrime and international financial crime (article 19 par. 4 of Law 1756/1988).

122. As regards the power of the executive in individual cases, the Minister of Justice may ask the public prosecutor of the Supreme Court to order the investigation and the introduction of the case in the hearing as a matter of absolute priority (article 30 par. 3 of the Code of Criminal Proceedings). Furthermore, the Minister is entitled upon a decision by the Council of Ministers to postpone the commencement of penal proceedings or to suspend penal proceedings against political offences, as well as with regard to offences that may unbalance the international relations of the State, except for the offence of bribery of foreign public officials in the context of international business transactions (article 30, paragraph 2 of the above Code, as amended by sub-paragraph O 14, article 1 of Law no. 4254/2014.

123. The GET was advised on site that this power of the Minister to postpone or interrupt proceedings, which is limited to certain specific situations, had only been applied once in the past, in a case not related to corruption. The applicability to cross-border proceedings has been further reduced in the specific context covered by the OECD Convention (on combating bribery of foreign public officials in the context of international business transactions), which inevitably raises questions as to the need for appropriate similar limits beyond that context and involving for instance bribery of domestic officials by foreign businesses, cross-border trading in influence and so on. Greece may wish to bear this issue in mind given that recent allegations of corruption involving senior Greek politicians and foreign businesses have had particular resonance in the country.

Recruitment, career and conditions of service

124. Prosecutors and judges are basically subject to the same rules and they undergo the same recruitment paths. The GET was given assurances that prosecutors are largely equalled to judges when it comes to their operational independence. That said, as indicated in the previous chapter on judges, promotions to the highest judicial posts including the Prosecutor General to the Supreme Court results from an election by the Council of Ministers, upon a proposal of six names by the Minister of Justice. A non-binding opinion is issued by the Conference of Presidents of the Parliament on this proposal and article 90 of the constitution provides for a maximum appointment of four years. Moreover, only the Minister of justice can initiated disciplinary proceedings against the Prosecutor General. A recommendation in chapter iv. was issued to the effect of improving the situation of all senior judicial figures, including the Prosecutor General given the importance of preserving the confidence of the public and the respect of the judiciary and the legal profession.

Case management and procedure

125. The GET obtained conflicting information on this matter. The replies to the questionnaire indicated that according to Law 1756 / 1988, the hierarchical dependence plays a major role and that the criteria contained in the internal rules of the prosecution office are to be taken into account. As a result, cases are allocated in the first instance court according to the rank and seniority of each prosecutor, the rapid and effective completion of each case, the importance, the complexity and the level of difficulty of the case and the workload involved. During the on-site interviews, members of a prosecution service to the first instance court of Athens indicated that cases are distributed by lot and in a way which ensures an equal distribution of the workload. The senior prosecutor in charge cannot, as a rule, give a specific case to one of his/her colleagues in particular. There is thus a need for Greece to address the causes for these apparent radical differences for a given identical prosecutorial level. Any excessive divergences in this area could create unnecessary risks for the procedure and open the door to discretionary application of procedural rules. Such uniform rules would also need to address the withdrawal of a case from a prosecutor, on the basis of objective criteria to ensure a balance between the needs for effectiveness and timeliness of the prosecutorial action on the one hand, and the interests of the State or private parties on the other hand. **GRECO recommends that precise case management rules be drafted and applied consistently within the prosecution services, including criteria for the assignment and withdrawal of a case.**

126. Moreover, the procedure involving the special court of article 86 of the Constitution raises several questions. This court – which is composed of career judges – hears in first and last instance cases involving serving or former members of the Cabinet or Undersecretaries for criminal offences that they are alleged to have committed during the discharge of their duties. The parliament has the monopoly of prosecution against the officials concerned and, more generally, the initiation of any proceedings (prosecution, investigation, preliminary examination) is not permitted without a prior resolution of parliament adopted with the absolute majority. Moreover, the parliament can interrupt proceedings at any stage, which the GET understands as applying also to proceedings before the court: this faculty is apparently left to the complete discretion of parliament. The combination of these factors raises concerns for the operational autonomy of prosecution bodies and the independence and impartiality of proceedings. This situation clearly calls for improvements, bearing also in mind the problematic situation of members of government and their perceived impunity (see paragraph 67 above). **GRECO recommends that the procedures involving the special court of article 86 of the Constitution be amended so that they do not hamper or prevent criminal proceedings in respect of serving and former members of government.**

Ethical principles and rules of conduct

127. Prosecutors are subject to the rules already mentioned in respect of judges and do not call for particular comment. As it was mentioned, fundamental values and qualities are provided for in the Constitution and in Law 1756/1988. Indirectly, through the system of inspections, further values are promoted such as good morality, courage and character, scientific expertise, critical capacity and perception, diligence, willingness to work and service performance (both qualitative and quantitative), ability to administer justice both at preparatory and at the hearing phases, as well as the ability to communicate clearly and so on. As it was indicated, Greece needs to adopt a code of conduct for judges and prosecutors.

Challenge or withdrawal

128. Prosecutors cannot be challenged / recused given the nature of their function, but are nonetheless required to abide by the general rules on withdrawal and recusal in case of existence of marital or family ties, risk of bias or other conflicting situations etc. In particular, article 14 of the Criminal Procedure Code (CPC) on "exclusions" prohibits persons who are related by blood or marriage up to the third degree to perform the duties of interrogating officer, judge, prosecutor or secretary in the same penal case. Article 15 CPC provides for the mandatory "exemption" when the reasons for the exclusion of any of the above officials are met or when their impartiality has been or might be questioned. However, the way in which the procedure is conducted or the manner in which witnesses and defendants are questioned do not constitute sufficient grounds for such an exemption. The same provision as the one of article 14 CPC can be found in article 8 of Law 1756/1988: the prosecutor (among the other categories of officials concerned) is then required to notify the judge, the Chair of the court, the prosecutor to the court or the head of the prosecutor's office of any such case and non-compliance with this duty entails disciplinary liability. It does not affect the validity of legal proceedings. Article 23 CPC provides for the procedure to be followed in case of "exclusion" or "exemption" by the prosecutor (or any other person listed in article 14 CPC); s/he must ask to be discharged from the case and the decision is to be taken by the court siting in plenary. The Greek authorities explain that with the definition of conflicts of interest introduced by Law 4281/2014 (see paragraph 32), the occurrence of a conflict situation would constitute a reason for exemption.

Prohibition or restriction of certain activities;

Incompatibilities and accessory activities; Restrictions applicable after prosecutors have left office; gifts; Contacts with third parties and confidential information

129. The various rules on incompatibilities and accessory activities mentioned earlier in respect of judges are normally the same. Basically, the function of a judge or prosecutor is incompatible with any other function or activity and there are a few exceptions (academic work, participation in certain State bodies of a non-administrative nature (independent agencies mainly). There are no post-employment restrictions in Greece for prosecutors.

130. The same applies in respect of rules on gifts: prosecutors are subject to the same rules as judges which, for the time being, are basically the criminal law provisions on bribery and as it was indicated earlier, this is not a satisfactory solution given that preventive rules on gits and other benefits pursue a different objective and Greece needs to adopt more specific guidance.

131. As already indicated, the (mis)use of confidential information falls under article 91 f) of Law 1756 / 1988 which provides that the infringement of "service confidentiality" constitutes a disciplinary offence. Greece also need to introduce clearer rules as regards

third party contacts, which could be done in the context of the introduction of a code of conduct.

Conflicts of interests; declarations of assets, income, liabilities and interests

132. With the amendments of August 2014, declarations of judges, prosecutors but also parliamentarians and other public officials will be submitted in future to the newly created Committee for the Investigation of Declarations of Assets. Declarations of judges and prosecutors will not become public though. As it was pointed out, Greece will need to ensure that the future body – which is provided with broad powers – performs its functions in an effective manner given the lack of results of the previous bodies responsible for the control of declarations.

Supervision and enforcement

133. Prosecutors are subject to a system of annual inspections which is similar to judges, in accordance with the Constitution (article 87). Public Prosecutors shall be inspected by the Supreme Civil and Criminal Court judges and Public Prosecutors of a superior rank, as specified by law. The inspections are conducted by the competent inspectorate responsible for the judges and prosecutors of a certain court level.

134. The absence of adequate analysis, information and reporting at many levels of State institutions on the actual functioning and results of judicial institutions was emphasised and Greece needs to put in place a comprehensive, periodic report on the functioning of the judiciary including prosecutorial bodies. Such a report would be based on inputs from the various branches of the judiciary and it would provide for objective and measurable data that would enable to assess the functioning and effectiveness of judicial institutions, which have been criticised in recent years notably for the important backlog of cases and risks that go with such situations.

Sanctions

135. As indicated under the chapters on judges and parliamentarians, declaratory obligations are subject to heavy criminal law sanctions. Under the general disciplinary rules, prosecutors – just like judges – may be subject to a written reprimand, a fine ranging from two-day earnings up to total three-month earnings, a temporary dismissal from ten days to six months and a permanent dismissal in the most serious cases.

Advice, training and awareness

136. The activities in terms of initial and in-service training to which the part on judges refers also concern prosecutors, and the reader is referred back to that part. Prosecutors follow the same career paths and training events as judges and as it was pointed out, Greece needs to do more to increase the efforts in this area.

VI. RECOMMENDATIONS AND FOLLOW-UP

137. In view of the findings of the present report, GRECO addresses the following recommendations to Greece:

Regarding members of parliament

i. **to ensure that legislative drafts including those carrying amendments are processed with an adequate level of transparency and consultation including appropriate timelines allowing for the latter to be effective** (paragraph 25);

ii. **i) swiftly proceeding with the adoption of a code of conduct for members of the parliament and establishing a suitable mechanism within Parliament for its promotion, supervision and enforcement and ii) that the public is informed accordingly** (paragraph 31);

iii. **that rules be introduced for the *ad hoc* disclosure when a conflict arises with a parliamentarian's private interests** (paragraph 34);

iv. **that adequate and consistent rules be elaborated concerning the acceptance by parliamentarians of gifts, hospitality and other advantages including special support provided for parliamentary work, and that internal procedures for the valuation, reporting and return of unacceptable benefits be developed** (paragraph 35);

v. **i) that the implementation of the rules on professional eligibility and incompatibilities applicable to parliamentarians is properly assessed and that the necessary secondary legislation is introduced accordingly, as already foreseen in particular under article 57 paragraph 4 of the Constitution; ii) that the objectives and effectiveness of article 8 of Law 3213/2003 concerning restrictions on the involvement of parliamentarians (and other officials concerned) in offshore companies be reviewed, in line with the declaratory obligations provided in the same law** (paragraph 41);

vi. **the development of rules to prevent the misuse of confidential information in respect of a broader range of subject matters which are not necessarily captured by the criminal offence of divulgation of State secrets** (paragraph 45);

vii. **the introduction of rules on how members of parliament engage with lobbyists and other third parties who seek to influence the parliamentary process** (paragraph 46);

viii. **that the system of declaration of assets, income and interests is reviewed so that all pertinent information is adequately reflected, including on debts and liabilities, and to ensure that declarations are accessible to the public conveniently and for an adequate period of time** (paragraph 52);

ix. **that the newly established Committee for the Investigation of Declarations of Assets (CIDA) becomes operational as soon as possible and is provided with all the means necessary to perform its tasks effectively and pro-actively, and that it reports periodically and publicly about the results of its activity** (paragraph 58);

x. **that determined measures be taken in order to ensure that the procedures to lift the immunity of parliamentarians do not hamper or prevent criminal proceedings in respect of members of parliament suspected of having committed corruption related offences, notably by defining clear rules and criteria in that area** (paragraph 68);

xi. **that as part of a proclaimed integrity policy, efficient internal mechanisms be developed to promote, raise awareness of, and thereby safeguard, integrity in Parliament in a collective effort (e.g. training, discussions on ethics and integrity, awareness of bribery and other corruption-related offences) and on an individual basis through confidential counselling in problematic situations** (paragraph 69);

Regarding judges and prosecutors

xii. **i) revising the method of selection concerning the most senior positions of judges and prosecutors so as to involve the peers in the process and ii) to consider amending the modalities for the initiation of disciplinary proceedings in their respect** (paragraph 82);

xiii. **i) that procedural rules provide for further guarantees against delays before the stage of the decision and that channels for complaints against undue delays be clarified, streamlined and properly communicated to the public; ii) that the role of judges and prosecutors with managerial functions be strengthened as regards caseload management** (paragraph 95);

xiv. **that a set of clear standards of professional conduct and integrity, accompanied by explanatory comments and/or practical examples be introduced for judges and prosecutors** (paragraph 98);

xv. **that consideration be given to consolidating the various judicial bodies currently responsible for the career, professional supervision and discipline of judges and prosecutors** (paragraph 110);

xvi. **that periodic public reports be introduced on the functioning of the courts and the prosecution service, which would include adequate statistical data, information and analyses concerning in particular the management of the workload and disciplinary cases** (paragraph 111);

xvii. **that training and awareness be developed on integrity-related issues both in the context of initial and of on-going training for judges and prosecutors** (paragraph 118);

Regarding prosecutors specifically

xviii. **that precise case management rules be drafted and applied consistently within the prosecution services, including criteria for the assignment and withdrawal of a case** (paragraph 125);

xix. **that the procedures involving the special court of article 86 of the Constitution be amended so that they do not hamper or prevent criminal proceedings in respect of serving and former members of government** (paragraph 126).

138. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Greece to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2016. These measures will be assessed by GRECO through its specific compliance procedure.

139. GRECO invites the authorities of Greece to authorise, at their earliest convenience, the publication of this report, to translate it into the national language and to make this translation available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at www.coe.int/greco.