

Adoption: 29 October 2020  
Publication: 6 November 2020

Public  
GrecoRC5(2020)6

## FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in  
central governments (top executive functions) and  
law enforcement agencies

## COMPLIANCE REPORT

# LUXEMBOURG



Adopted by GRECO  
at its 86<sup>th</sup> Plenary Meeting (Strasbourg, 26-29 October 2020)



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## **I. INTRODUCTION**

1. GRECO's Fifth Evaluation Round deals with "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies".
2. This [Compliance Report](#) assesses the measures taken by the authorities of Luxembourg to implement the recommendations issued in the Fifth Round [Evaluation Report](#) on Luxembourg which was adopted at GRECO's 80<sup>th</sup> Plenary Meeting (22 June 2018) and made public on 27 June 2018, following authorisation by Luxembourg ([GrecoEval5Rep\(2017\)5F](#)).
3. As required by GRECO's Rules of Procedure<sup>1</sup>, the authorities of Luxembourg submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 December 2019 and served, together with additional information subsequently provided, as a basis for the Compliance Report.
4. GRECO selected France with respect to top executive functions in central governments) and Andorra (with respect to law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Vincent FILHOL, on behalf of France, and Ms Eva GARCIA LLUELLES, on behalf of Andorra. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
5. The Compliance Report examines the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any pending recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

## **II. ANALYSIS**

6. GRECO addressed 21 recommendations to Luxembourg in its Evaluation Report. Compliance with these recommendations is dealt with below.

*Preventing corruption and promoting integrity in central governments (top executive functions)*

7. [The authorities of Luxembourg](#) explain that, following the publication of the evaluation report on 27 June 2018, the Luxembourg government immediately set up a working group made up of representatives of the Ministry of State, the Ministry for the Civil Service and the Ministry of Justice to examine the recommendations, consider the best means of implementing them, allocate drafting work and draw up an implementation timetable. The group decided to task the representatives of the Ministry of State with drawing up a preliminary draft code of conduct applicable to members of the

---

<sup>1</sup> The Compliance procedure of GRECO's Fifth Evaluation Round is governed by its Rules of Procedure, as amended: Rule 31 revised bis and Rule 32 revised bis.

government and senior officials for the purpose of implementing recommendations i to xi.

8. The implementation of the recommendations on ministers was integrated in the Code of conduct for members of the government, namely the text laid down in the amended Grand Ducal order of 14 November 2014 establishing rules of conduct for members of the government and their duties and rights while in office. This Code takes the form of a Grand Ducal order issued on the basis of Article 76 of the Constitution which empowers the Head of State to organise the government. In view of the many amendments made to the code and to obviate the risk of an unreadable amending text, it was thought preferable to repeal the aforementioned order and replace it by a new order which nevertheless maintains a large part of the rules of the 2014 code of conduct.
9. As regards the implementation of the recommendations made in respect of what GRECO termed as senior civil servants appointed to political positions, the government decided to opt for a Grand Ducal order, also adopted on the basis of Article 76 of the Constitution, given the advisers' very close links with the organisation of government. As orders issued under Article 76 have the force of law within Luxembourg's domestic legal system, this solution was preferred to a "mere" government instruction issued pursuant to the law establishing the general regulations governing civil servants.
10. All the ministries were consulted on the preliminary draft texts implementing the recommendations. Once the various comments and views had been taken into account, the two texts, namely a Code of conduct for members of the government and a Code of conduct for senior civil servants, were placed on the agenda of the cabinet meetings held on 6 and 20 December 2019. On 20 December 2019, the government adopted both codes in the form of a Grand Ducal order and decided to submit them to GRECO to check their compliance with the 11 recommendations, prior to submitting them to the Head of State for signature and publication in the Official Bulletin of the Grand-Duchy of Luxembourg.
11. The government preferred this approach which, while it does defer the entry into force of the new rules, has the advantage of not introducing a body of rules, many of them new, only to amend them in the light of GRECO's compliance report.

#### **Recommendation i.**

12. *GRECO recommended that a framework be provided to govern the direct recruitment of senior civil servants appointed to political positions, particularly in view of the risks private functions carried out before their appointment could cause to the impartiality and independence of public office.*
13. The Luxembourg authorities explain that the Grand Ducal order of...<sup>2</sup> establishing rules of conduct for advisers to the government stipulates in article 2 that all candidates applying for a post of government adviser – which corresponds to GRECO's definition of

---

<sup>2</sup> The date of signature by the Head of State will be inserted in place of the dots in due course (see paragraphs 9 and 10).

"persons entrusted with top executive functions" (PTEFs) – must submit a list of various information to the Prime Minister, who passes on this information to the Ethics Committee. The candidates are under obligation to state all the remunerated activities they have carried out in the last 10 years, the remunerated activities of their spouse or partner registered under a civil partnership at the time of taking up their post, their financial holdings, their speculative and income-generating property assets and also any indebtedness of over 100 000 € not resulting from the purchase of their main residence.

14. To ensure that candidates are impartial and independent, the Ethics Committee is required to give an opinion on any conflicts of interest, addressed to the candidate and, in a sealed envelope, to the Prime Minister. If the committee finds that there is a conflict of interest, the candidate is given the opportunity to remedy the issue within a certain time limit granted by the Prime Minister, who will decide upon the expiry of that time limit whether the candidate has taken the necessary remedial action, failing which the candidate will not be appointed.
15. Where the Ethics Committee finds that there is a conflict of interest on grounds of the private-sector posts previously held by the candidate, the Prime Minister will be apprised of the negative opinion of the Ethics Committee and may decide not to appoint the candidate to the post sought.
16. GRECO takes note of the provisions set out in the Grand Ducal order establishing the ethics rules applicable to government advisers. In its opinion, the list of information to be provided by a candidate for the post of adviser, the opinion of the Ethics Committee and the final decision to be taken by the Prime Minister provide an adequate control framework. However, GRECO notes that the Ethics Committee's opinion is not to be made public. This is a shortcoming, as the Prime Minister could very well decide to ignore a negative opinion from the Ethics Committee and appoint an adviser with a conflict of interest. The authorities argue that they do not wish this opinion to be made public, in order to protect the candidate for the post who, prior to his/her appointment, is not yet a PTEF. They further point out that the possibility of the Prime Minister appointing a candidate against the opinion of the Committee is not provided for in the Grand Ducal order. GRECO takes note of these arguments and considers that, in the absence of publication of the opinion of the Ethics Committee, which it still considers desirable, the effectiveness of the mechanism could be enhanced by a clearer affirmation of the fact that the Prime Minister is bound by the opinion of the Ethics Committee or by a strengthening of the latter's powers to follow up on its opinions. GRECO further notes that the Grand Ducal order, although adopted, has not yet entered into force.
17. GRECO concludes that recommendation i has been partly implemented.

**Recommendation ii.**

18. *GRECO has recommended that a Code of Conduct applicable to senior civil servants appointed to political positions be adopted.*

19. The Luxembourg authorities report that, at its sitting on 20 December 2019, the Cabinet adopted such a code of conduct, in the form of a Grand Ducal order establishing rules of conduct for government advisers (hereinafter "code of conduct for advisers"). In the light of the numerous recommendations made by GRECO calling for identical or similar rules of conduct applying to both members of government and senior officials, the government thought it expedient to have uniform rules. Accordingly, with the exception of a few minor adaptations, mostly of a procedural nature, the rules applicable to senior officials are identical to those for members of government.
20. GRECO welcomes the government's adoption, following an inclusive process, of a code of conduct for advisers, whose rules are largely calked on those applicable to ministers. With regard to the updating of the code, GRECO notes that the Ethics Committee will carry out periodical assessments of the code's application and may, at any time, issue recommendations to the government on adaptations to be made. Those recommendations will be published on the government's internet site. These arrangements and the code itself meet the requirements of the recommendation. GRECO notes however that the code has not yet entered into force, which, at this stage, stands in the way of full implementation of the recommendation.
21. GRECO concludes that recommendation ii has been partly implemented.

**Recommendation iii.**

22. *GRECO recommended developing efficient internal mechanisms to promote and raise awareness of integrity matters in the government, including confidential counselling and training at regular intervals for ministers and senior civil servants appointed to political positions.*
23. The Luxembourg authorities explain that both members of the government and senior officials may turn to the Ethics Committee for advice in the form of confidential counselling. Article 13 (1) of the code of conduct for advisers and Article 27 (1) of the Grand Ducal order of ... establishing rules of conduct for members of the government (hereinafter the "code of conduct for members of government") state that ministers or advisers may refer any matter regarding the interpretation and the application of the codes to the Ethics Committee.
24. Article 3 (1) of the code of conduct for members of government stipulates that ministers must undergo a training session to make them aware of the code's provisions within three months following their appointment. Article 3 (1) of the code of conduct for advisers stipulates an obligation of awareness-raising that is identical, except that it refers to both the code of conduct for advisers and the code for ministers, meaning that advisers will be informed of both their own ethics rules and those applying to the ministers they will be advising and will be able to ask questions regarding the interpretation of those rules.
25. Article 3 (2) of the code of conduct for advisers then places senior officials under obligation to undergo training at least once a year on one of four topics raising their

awareness of the issue of integrity in public office. The training on offer will look at the rights and duties of state officials, ethics and integrity, the fight against corruption and leading and managing teams.

26. An exception is established for those senior officials who can demonstrate that they have already completed training in a given listed topic before being appointed to a government adviser post. The reason is that many advisers come through the classic administrative career path which requires those seeking promotion to the upper grades to complete a training cycle in public management skills, including at least 12 days of in-service training. The training modules on offer in that cycle include ethics and integrity in public office.
27. GRECO takes note of the arrangements provided for in the codes of conduct aimed at raising awareness among ministers and advisers, which are positive developments, particularly with respect to Article 3 (2) of the code of conduct for advisers stipulating compulsory training in ethics at least once a year. GRECO notes that the wording of that paragraph is somewhat ambiguous and should ideally be made clearer. It also notes that, for ministers, there will only be some initial training organised shortly after they take up their post and there is no provision for any refresher training. This means that the requirement of training "at regular intervals" for ministers is not fulfilled.
28. The possibility for ministers and advisers to refer matters to the Ethics Committee in confidence is also a positive point. GRECO nevertheless reiterates the comment made in its Evaluation Report that this possibility, which already existed for ministers, had never been exercised in practice. It therefore awaits further information for its next report on the implementation of this mechanism, in the hope that the training dispensed by then will highlight the utility of the Ethics Committee and encourage trainees to consult it.
29. GRECO concludes that recommendation iii has been partly implemented.

#### **Recommendation iv.**

30. *GRECO recommended that the principle of transparency of documents held by public authorities be enshrined in law.*
31. The Luxembourg authorities report that the Law of 14 September 2018 on transparent and open administration has been in force since 1 January 2019. The law establishes the principle of automatically making public the documents accessible to the authorities that fall within the scope of the law. There is a right of access to all the documents relating to a given administrative activity which are held by state administrations and services, municipalities, syndicated municipalities, public establishments under supervision of the State or municipalities as well as legal entities providing public services, the Chamber of Deputies, the Council of State, the Ombudsman, the Court of Audit and professional chambers. Supervision of public authorities' correct application of the law is entrusted to an independent administrative authority established under the Prime Minister/Minister of State.

32. GRECO welcomes the entry into force of the Law of 14 September 2018 on transparent and open administration, enshrining citizens' general right of access to administrative documents. The principle of automatically making public the documents held by the public authorities, the guarantee of the right of everyone to access those documents and the supervision arrangements written into the law comply with the principles set out in the Council of Europe Convention on Access to Official Documents (CETS 205) and Recommendation Rec(2002)2 of the Committee of Ministers to member States on access to official documents.

33. GRECO concludes that recommendation iv has been implemented satisfactorily.

**Recommendation v.**

34. *GRECO recommended (i) that detailed rules be introduced on the way in which ministers and senior civil servants appointed to political positions interact with lobbyists and other third parties seeking to influence the government's legislative and other activities; and (ii) that sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion.*

35. The Luxembourg authorities report that the new code of conduct for members of government provides for the introduction of a register of interviews that take place between ministers and representatives of interest groups (article 5). The new code of conduct for advisers makes an analogous provision regarding interviews between advisers and representatives of interest groups (article 5).

36. The term "representatives of interest groups" refers to individuals or entities acting as professional lobbyists, mandated and remunerated by a commercial company or other entity engaging in a competitive activity and seeking to influence or steer political debate to its own advantage.

37. Two centralised registers are to be set up, and these will be managed by the Prime Minister's secretariat. Any interview to be registered will have to be logged – by the ministers, the advisers or their secretariat - within one month. The following information must be entered for each interview in the registers:

- the physical individual or entity (i.e. representative of an interest group) who requested the interview;
- the physical individual or entity whose interests were represented during the interview;
- the sphere of activity referred to by the representative of the interest group during the interview; and
- the member of government or adviser who took part in the interview.

38. The register will be public and freely available for consultation on the government's website ([www.gouvernement.lu](http://www.gouvernement.lu)). The interviews that took place during a given legislature will be public for its entire duration and a further three months thereafter.

They will then be archived by the Ministry of State but remain accessible under the conditions laid down by the amended Law of 14 September 2018 on transparent and open administration (see recommendation iv).

39. GRECO welcomes the forthcoming setting up of registers of interviews between ministers or advisers and representatives of interest groups. These registers, which are to be published online, go some way towards implementing the second part of the recommendation. However, GRECO believes that they suffer from certain shortcomings that will prevent them from being as comprehensive and useful as they should be. Only interviews requested by representatives of interest groups will be included in the registers, for example, meaning that any meetings with those individuals or entities at the initiative of a minister or adviser will not be made public. Furthermore, merely mentioning the sphere of activity referred to by the representative of an interest group during an interview appears to GRECO to be too vague in relation to the aim of the recommendation, which calls for disclosure of the specific subject discussed.
40. The definition of representatives of interest groups refers to lobbyists in the strict sense of the term, as pointed out in the commentaries to the two codes and therefore excludes a whole host of third parties who may also seek to influence the decisions of ministers or advisers, such as lawyers, company heads or other individuals wishing to further their own interests.
41. In addition, the codes of conduct are not clear on the question of who is responsible for filling in the registers. If it is the ministers, advisers and their secretariat, as the authorities have specified, the codes or the commentaries to them would benefit from stating this. The commentaries on the relevant articles also mention that, after the post-legislature archiving of the registers, anyone demonstrating an interest may request access to them. This wording is not in line with the amended Law of 14 September 2018 on transparent and open administration, which states (in Article 3) that it is not necessary to declare an interest to gain access to a document.
42. Finally, GRECO notes that, other than the register of interviews, neither of the codes contains any rules governing how ministers and their advisers maintain contact with representatives of interest groups and other third parties seeking to influence their decisions. The first part of the recommendation is therefore yet to be implemented. GRECO calls on the Luxembourg authorities to amend the codes to remedy these shortcomings.
43. GRECO concludes that recommendation v has not been implemented.

#### **Recommendation vi.**

44. *GRECO recommended that the rules on abstention by senior civil servants appointed to political positions be defined more clearly by including specific criteria, in particular marital and family ties.*
45. The Luxembourg authorities state that this recommendation is implemented through article 4 of the code of conduct for advisers. Paragraph 1 of that code gives a general

definition of conflicts of interest and paragraph 2 lists very extensive criteria relating to family, marital and other ties (such as friends or relatives), which may entail an obligation for the senior official to step back from a matter where they have a conflict of interest. It is also stipulated that a senior official who has stepped back from a matter where they have a conflict of interest may not have any kind of involvement in it whatsoever or give orders or instructions to the person to whom the matter has been assigned.

46. GRECO considers that Article 4(2) of the code of conduct for advisers, stipulating criteria relating to family, marital and other ties obliging an adviser to step back from a given matter, adequately fulfils the aims of the recommendation. Once the code has entered into force, this recommendation may be considered as fully implemented.
47. GRECO concludes that recommendation vi has been partly implemented.

#### **Recommendation vii.**

48. *GRECO recommended (i) that the rules on gifts applicable to ministers be improved and (ii) that the rules on gifts applicable to senior civil servants appointed to political positions be clarified.*
49. Where the first part of the recommendation is concerned, the Luxembourg authorities explain that the rules on gifts have been tightened up in several respects for ministers. Gifts from public or private entities engaging in activities in a competitive sector may still be accepted if their value is below 150€. What is new, however, is the obligation to declare gifts and offers of hospitality with a value of above 100€ (article 7 (2) of the code of conduct for members of government) to the Prime Minister's secretariat, which keeps a register of declared gifts and publishes it on the government's internet site (article 9 (3) of the code of conduct for members of government).
50. When a minister receives several gifts/offers of hospitality from the same donor engaging in activities in a competitive sector in a single calendar year and the total value of those gifts/offers of hospitality is in excess of 100€, the minister must declare all these gifts/offers of hospitality to the Prime Minister's secretariat, even if the value of each individual component is less than 100€ (article 7 (3) of the code of conduct for members of government).
51. Previously, gifts failing to meet the requirements for acceptance but in the given circumstances could not be refused were simply to be declared to the Prime Minister's protocol department, and the minister concerned was allowed to keep them. Under the new rules, these gifts must be handed over to the Prime Minister's secretariat as soon as possible and they are also entered in the publicly accessible register of gifts.
52. Regarding the second part of the recommendation, the authorities explain that the rules on gifts and offers of hospitality to be complied with by senior officials are now aligned with those applicable to members of government (articles 6 to 10 of the code of conduct

for advisers). Accordingly, senior officials now have specific rules supplementing the legal obligation already laid down in the general regulations governing civil servants<sup>3</sup>.

53. GRECO notes that the rules applicable to ministers on gifts have been tightened up in certain respects, notably through an obligation to declare gifts received from the same donor in a single calendar year if their total value is in excess of 100€. This is a positive step, as is the obligation to hand over to the Prime Minister's secretariat gifts that could not be refused. In view of these provisions, combined with a prohibition on accepting gifts of any value and from any donor where there is a risk they may influence ministers and also the option of requesting an opinion from the Ethics Committee, GRECO considers the rules on accepting gifts satisfactory. Nevertheless, it urges the authorities tasked with supervising application of the code (the Ethics Committee) to be particularly vigilant that these rules are followed in practice. Accordingly, the first part of the recommendation may be considered as fully implemented once the code of conduct for ministers has entered into force.
54. As the rules for accepting gifts applicable to advisers are closely modelled on those for ministers, the comments made by GRECO above apply equally here. The new rules satisfy the need for clarification expressed in the second part of the recommendation, which may also be considered as being fully implemented once the code of conduct for advisers has entered into force. In the meantime, both parts of this recommendation must be considered as being partly implemented.
55. GRECO concludes that recommendation vii has been partly implemented.

**Recommendation viii.**

56. *GRECO recommended (i) that an obligation to inform, during a set period, an appropriate body of any new professional activity undertaken should be established for all former members of the government and former senior civil servants appointed to political positions and (ii) that all such activity should be studied and, if appropriate, supervised or prohibited to allay any suspicion of a conflict of interest, when the activity in question is subject to a system of authorisation or supervision by the entity that the former member of government or former senior civil servant has just left.*
57. Regarding the first part of the recommendation, the Luxembourg authorities state that the new codes of conduct for members of government (article 15) and advisers (article 12) lay down an obligation to notify the Ethics Committee of any new professional activity in the private sector, and that obligation extends for two years after the end of the term of office for members of government and one year for advisers. The period stipulated for senior officials is shorter in order to align it with the maximum duration of non-competition clauses that may be imposed in law in the private sector (Article L 125-8 of the Labour Code). For members of government, the longer waiting period is justified by the fact that, as long as they do not accept any new employment after their

---

<sup>3</sup> Article 10 (3) of the amended Law of 16 April 1979 establishing the general regulations governing civil servants: "Officials may not solicit, accept or seek promises from any source, directly or indirectly, of material benefits whose acceptance could place them in conflict with the obligations and safeguards imposed on them by the laws and regulations and in particular the present regulations."

ministerial office ends, they may benefit from a waiting allowance for two years post-office (Article 40 of the amended Law of 25 March 2015 establishing the remuneration system and promotion conditions and procedures for civil servants).

58. The notification given to the Ethics Committee must contain a detailed description of the professional activity envisaged.
59. Where the second aspect of the recommendation is concerned, the authorities state that if a former member of government or former civil servant goes to work in a sector of activity which is subject to a system of authorisation or supervision by the entity they are leaving, the Ethics Committee will issue a confidential opinion, addressed to the Prime Minister and the individual concerned. If the Committee considers that the activity, as described, is incompatible with the office formerly held, it will make recommendations for restricting the activity so that any situation of conflict of interest is avoided.
60. GRECO takes note of the rules laid down in the two codes of conduct, which establish an obligation to notify the Ethics Committee of any new professional activity in the private sector for two years after the end of the term of office for ministers and one year for senior officials. The reasons put forward for these differing durations appear to be satisfactory and, once the codes have entered into force, this part of the recommendation may be considered as being fully implemented.
61. With regard to the second part of the recommendation, GRECO appreciates that the Ethics Committee can make recommendations for restricting activities it deems incompatible. That said, the provisions set out in the codes fall short of the recommendation's requirements in two respects. Firstly, the Committee's recommendations will remain confidential. GRECO reiterates that the European Ombudsman, in a feature article published in GRECO's 2016 annual report, called for the proactive publication of decisions on post-term of office activities of former European Commissioners and expressed her view that this requirement was also applicable to former top executive officials and all the more so as it was already provided for in a code of conduct for ministers in Luxembourg (see Evaluation Report, footnote no. 21).
62. Secondly, GRECO considers that the Ethics Committee should be able to recommend, in the most obvious cases of conflict of interest, that the former senior official not be allowed to engage in the intended activity, in line with the recommendation. GRECO calls on the Luxembourg authorities to revise the provisions of the codes of conduct where these two aspects are concerned. In the meantime, the second part of the recommendation is partly implemented, as is the recommendation as a whole.
63. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

64. *GRECO recommended (i) widening the scope of the disclosure and publication obligations of ministers to include speculative and income-generating property assets and significant debts, as well as considering providing information on their spouses and*

*dependent family members (it being understood that such information would not necessarily need to be made public) and (ii) introducing a system of disclosure for senior civil servants appointed to political positions similar to that which is binding on ministers.*

65. The Luxembourg authorities emphasise that the new codes of conduct now stipulate that ministers and their advisers must submit a list reporting *inter alia* property assets which they do not live in and are not lived in free of charge by a relative up to the second degree inclusive, as well as holdings in property companies. They must furthermore declare any indebtedness in excess of 100 000€, with the exception of mortgage debt contracted for the purchase of their main residence.
66. The government did not extend this reporting requirement to ministers' spouses and dependent family members on grounds of protecting those individuals' privacy, as this is a fundamental right, and its restriction was not considered to be proportionate to the aims of fighting corruption within the executive, of which those individuals are not members.
67. The new code of conduct for advisers provides for the same obligations and information to be reported as for members of government (article 2), namely: 1) all paid activities undertaken by them in the ten years prior to their appointment; 2) the professional activities of their spouse or partner; 3) any form of individual financial involvement, whether in shares or other securities, in the capital of a company; 4) property assets which they do not live in and are not lived in free of charge by a relative up to the second degree inclusive, as well as holdings in property companies; 5) any indebtedness in excess of 100 000€, with the exception of mortgage debt contracted for the purchase of their main residence. Any changes in that information must be notified to the Ethics Committee, which has the task of checking declarations with a view to identifying any conflicts of interest.
68. GRECO welcomes the extension of reporting obligations for ministers and the creation of an identical reporting system for their advisers. These provisions meet the requirements of the recommendation. Where spouses and dependent family members are concerned, GRECO regrets that the government has not followed up its suggestion to include information relating to them in the reporting requirements for ministers. However, it notes that the question has been duly considered, in line with the recommendation which asked that such an extension be envisaged. Pending the entry into force of the codes of conduct for members of government and advisers, this recommendation has therefore been partly implemented.
69. GRECO concludes that recommendation ix has been partly implemented.

#### **Recommendation x.**

70. *GRECO recommended that the powers of prosecution and jurisdiction in matters involving ministers be assigned to a judicial authority.*

71. The Luxembourg authorities report that the government is not yet in a position to implement this recommendation, as work to revise the current constitutional provisions covering this issue in Articles 82 and 116 of the Constitution has been delayed.
72. In the ongoing project to revise the Constitution in its entirety, started up by the Chamber of Deputies in 2009, it has just been decided to abandon the full-text revision and instead revise the Constitution in successive sections, the first of which will focus on justice. At this stage, the authorities are not in a position to estimate when the section dealing with the Grand Duke and the government, which includes provisions on the liability of members of government, will be revised.
73. However, the text of Article 90 paragraph 3 of the proposed draft full-text revision<sup>4</sup>, which drew on Article 103 of the Belgian Constitution and Article 68-1 of the French Constitution, already states that: "(3) The members of the government are liable under criminal law for the acts committed by them in the exercise of their duties. Only the public prosecutor may instigate and conduct criminal proceedings against a member of government for such acts, even when they are no longer in office. The court competent to try such cases and the procedures to be followed shall be defined by law."
74. The government remains committed to this approach and will ensure that the new proposal for constitutional revision has the desired result of the prosecution and judgment of members of government for acts committed in connection with their office being assigned to the judicial authorities.
75. GRECO takes note of the information provided. It commends the government's determination to implement the recommendation and encourages the authorities to continue their efforts. That said, given the current state of progress of work to produce a draft revision of the Constitution, this recommendation cannot be considered as being implemented, even partly.
76. GRECO concludes that recommendation x has not been implemented.

#### **Recommendation xi.**

77. *GRECO recommended the establishment of a reliable and effective monitoring and enforcement mechanism for breaches of the rules of the code of conduct applicable to members of the government and breaches of any future code of conduct applicable to senior civil servants appointed to political positions.*
78. The Luxembourg authorities explain that the new code of conduct for members of government maintains the Ethics Committee which already existed under the current code of conduct but gives it new powers which go substantially beyond its previous prerogatives which were limited to giving opinions at the express request of the Prime Minister or a member of government.

---

<sup>4</sup> Doc. Parl. 6030/27:

[https://www.chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=34083C33D8E53A75270CCA6E208867DD534A6FCFF314534CC36C3C062C53224E0278D4F1CE1FBD38484DFD1155B44549\\$6C501C8DDBFFDC33A76FE8858121F854](https://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=34083C33D8E53A75270CCA6E208867DD534A6FCFF314534CC36C3C062C53224E0278D4F1CE1FBD38484DFD1155B44549$6C501C8DDBFFDC33A76FE8858121F854)

79. The Ethics Committee is now the organ that supervises compliance with the provisions of both the code of conduct for members of government (article 27(2)) and the code of conduct for advisers (article 13(2)).
80. Both codes contain a set of express provisions establishing and facilitating supervision by the Ethics Committee:
- the Ethics Committee is tasked with issuing opinions on the declaratory lists submitted by members of government and advisers;
  - for sessions to raise awareness of ethical issues and the compulsory training to be undergone by advisers, lists of attendance are to be drawn up and sent directly to the Committee;
  - the Committee is notified of any new activity that a member of government or adviser would take up in the private sector;
  - the Committee is required to issue an opinion when a member of government or an adviser intends to take up new employment in a sector which is subject to a system of authorisation or supervision by the department or entity they are leaving.
81. The hypotheses provided for above mean that compliance with key ethics requirements by members of government and advisers is supervised as a matter of course.
82. Article 27 (2) of the code of conduct for members of government and Article 13 (2) of the code of conduct for advisers also empower the Ethics Committee to demand written explanations from any minister or adviser it suspects of breaching or having breached the respective codes.
83. The Ethics Committee may look into matters at its own initiative. It can even act on reports made by third parties, whether from the public sector or not, where such reports provide real grounds to suspect that the rules on ethics have not been followed.
84. The Ethics Committee also has a warning function and is able to issue reminders, through written explanations, as often as necessary to members of government and advisers of their obligations under the codes of conduct.
85. The powers of the Ethics Committee go beyond merely warning someone of non-compliance. The committee officially notes the issue and alerts the person concerned, giving them a deadline by which to remedy the situation where this is still possible.
86. If the breach is irremediable or the person concerned has not remedied the issue within the deadline set by the Ethics Committee, it notifies the Prime Minister in writing.
87. The two codes also establish a sanctions mechanism. For ministers, sanctions can only be political in nature. Accordingly, the code of conduct for members of government provides for publication of press releases reporting misconduct on the part of members of government on the government's internet site.

88. Advisers may be sanctioned on the basis of the current provisions of the law establishing the general regulations governing civil servants. Where some form of misconduct is found, the Prime Minister, once notified by the Ethics Committee, is required to notify these findings to the minister on whom the adviser at fault depends. It is then for the minister to initiate disciplinary proceedings against the adviser concerned, on the basis of Article 56 of the general regulations governing civil servants. It should be noted in this respect that the minister has no power of discretion as to the expediency of initiating disciplinary proceedings. This is a mandatory competence which obliges the minister to take direct action.
89. GRECO welcomes the Ethics Committee's extended role and powers in supervising compliance with the code of conduct for members of government and the code of conduct for advisers. It is a positive step, in terms of the consistency of the mechanism, that the same organ is assigned this task where both ministers and advisers are concerned. The automatic supervision of certain sensitive areas, such as post-mandate activities, and the committee's ability to act on its own initiative are commendable.
90. That said, GRECO believes that the mechanism must be further improved in order to gain in effectiveness and credibility, in line with the recommendation. Firstly, it appears that the Ethics Committee's composition and resources have remained unchanged, despite the fact that the new codes of conduct assign it broader powers, both for awareness-raising and supervision, in respect of a considerably larger group of people than before. These powers now cover advisers, who numbered 73 at the time of the evaluation visit. GRECO thinks it advisable that the committee be assisted by a secretariat with sufficient expertise and resources to carry out its tasks, particularly regarding the checking of ministers' and advisers' reporting obligations.
91. Secondly, if the only sanction provided for in the event of a minister's breach of the code of conduct is a political sanction, it is important to ensure that the government or a minister cannot postpone or oppose the publication of the press release stating the breach or breaches. Provision should therefore be made for the government to be required to publish the press release without delay or, failing that, for the Ethics Committee to publish it itself.
92. GRECO concludes that recommendation xi has been partly implemented.

*Preventing corruption as regards the law enforcement agencies*

93. By way of a preliminary comment, the Luxembourg authorities emphasise that the policing and civilian staff of the Grand Ducal Police are generally governed by the general regulations governing civil servants, except where disciplinary matters are concerned, for which policing staff are subject to special regulations. This means that, in principle, the regulations governing the police can be changed only where there are changes made to the general regulations governing civil servants.

## **Recommendation xii.**

94. *GRECO recommended (i) that the General Police Inspectorate be given the necessary resources to perform its tasks and (ii) that appropriate methods be established for recruiting qualified staff of integrity and training them.*
95. The Luxembourg authorities explained that, following the entry into force of the country's new law on 1 August 2018, the General Police Inspectorate (IGP) has become an autonomous authority with true organic and functional independence.
96. Where the first part of the recommendation is concerned, the Inspectorate's overall expenditure rose from 80 000-90 000€ in the years 2017-2018 to more than 3 000 000€ for 2019 and 3 938 000 for 2020. This increase is largely down to the fact that staff costs were switched from the police budget to the Inspectorate's budget. Staff management is also transferred to the IGP along with the budget appropriations.
97. Expenditure on acquisitions for the financial years 2018, 2019 and 2020 was also distinctly up on 2017, rising from 40 650€ in 2017 to over 60 000€ in 2018 and 2019. The surface area of premises has more than doubled, increasing from 537.66 m<sup>2</sup> to 1123.10 m<sup>2</sup>. In addition to an increase in "office" surface area to accommodate the increased number of staff, a custody cell has been installed and four interview rooms have been fitted out, one of them for video-filmed interviews. These adaptations have been made to the premises in response to the tasks assigned to the Inspectorate by the new law as well as the need for a degree of operational independence.
98. The IGP's staff, who numbered 17 in 2015 (and 31 in 2018 when the evaluation report was adopted), will reach a total of 39 by the end of 2020. The IGP/Police staff ratio rose from 0.83% in 2015 to 1.32% in 2018. It is likely to be between 1.3% and 1.4% for 2019.
99. With the entry into force of the new law, as far as the control of lawfulness is concerned, the IGP carries out all administrative investigations upon complaint or automatically. It can also undertake checks by subject area at its own initiative. The fact that the members of the "administrative investigations and judicial investigations" department are criminal investigations police officers means that they can carry out preliminary inquiries themselves. In both these areas, a proactive approach is very much an option. On the other hand, in the area of studies and audits and disciplinary investigations, under the law the IGP cannot take action without first having a matter referred to it by another body.
100. Noteworthy among the recruitment for 2020 is an IT specialist, who in addition to their main role of managing the IGP's pool of computers, will also have the task of assisting the IGP's investigators in the analysis of computer equipment seized in criminal proceedings. The intention is to dispense with the use of the specialised police services and introduce means of achieving operational independence.
101. Regarding the second part of the recommendation, the authorities report that the amended law of 18 July 2018 on the IGP contains provisions conducive to the

recruitment of qualified and motivated staff of integrity. For policing staff, Article 20 (2) of the law stipulates that "in addition to the specific requirements of the vacancy, the officials referred to in the present article must have completed ten years' service since their definitive appointment within the policing staff of the Police, have an irreproachable service record and, in the case of officials falling within a salary group for which there will be a promotion examination, have passed that examination". A rigorous assessment is made as to whether these requirements are met following the interview for potential policing staff recruits.

102. Article 20 (3) further stipulates that, "for a probationary period of six months, the officials referred to in the present article shall be seconded from the Police to the IGP and may return to their original posting at their request or by decision of the minister". This six-month period allows the IGP to form a final opinion on the candidate's aptness and probity as well as their ability to deal with dossiers assigned to them with all the objectivity and impartiality required of a member of an external control body. It should be noted that, since 2015, the staff recruited have come almost exclusively from the ranks of the police investigation services.
103. For civilian staff, the Law on the IGP makes no mention of the recruitment procedure to be followed. The practice in place has worked well, however, and is based, in principle, on a test of the candidates' skills. This is followed by two successive interviews before different IGP panels. In the first interview, it is the motivation and expectations of candidates that are assessed, and those selected are called to a second interview to determine, among other things, if the candidates are aware of the characteristics inherent to a body like the IGP and the values required to carry out its tasks. The ability to integrate in a new working environment and personal probity are central concerns for those conducting this second interview.
104. For both civilian and policing staff, another key factor is that, as stated in Article 19 of the Law on the IGP, "the members of the policing staff and civilian staff of the IGP may not transfer to a job with the Police". The principle of non-return is a total departure from the system of secondments applicable under the previous law and, as such, very substantially contributes to the independence of the IGP.
105. As regards training, the IGP uses outside trainers to cover specific points of legislation, such as non-contentious administrative proceedings, the fundamentals of administrative law or video-filmed interviews. This will be supplemented in 2020, depending on the areas to which staff members are assigned, by in-house training in various areas relating to the IGP's work: the investigations carried out by the IGP, the administrative investigation process, the conducting of a disciplinary investigation, the audit procedure, the code of ethics of the IGP and the prevention of corruption.
106. A training plan will be drawn up in the course of 2020. For civilian staff, the aim will be to expand knowledge of the methodological components in the area of studies and audits and be initiated in police practices and the workings of the police. Policing staff generally involved in the area of criminal, administrative or disciplinary investigations will be made familiar with the investigative practices and methods deployed by police oversight bodies in other countries. Through the training plan, training that is currently

only strongly recommended by the management will be made compulsory. It is to be noted that visits by IGP officials and staff to police oversight bodies in Belgium and France have already been organised for a number of years.

107. GRECO welcomes the entry into force of the Law on the IGP, whose main provisions were analysed in the evaluation report. The enshrining of true organic and functional independence in the law is commendable, as are the budgetary, procurement and recruitment measures enabling the IGP to acquire functional independence.
108. The increases in human and budgetary resources are undeniable and show that the first part of the recommendation has been partly implemented. That said, GRECO wishes to monitor this area and the practical functioning of the IGP in its next report before confirming that this aspect has been fully implemented. In particular, it wonders whether the increase in staff from 31 in 2018 to 39 in 2020 is sufficient to take on board the new prerogatives assigned to the IGP in the area of disciplinary investigations. On similar lines, further information on the practices developed by the IGP in the exercise of its ex officio powers will be the sole means of proving that it is taking a proactive approach.
109. Regarding the second part of the recommendation, GRECO is satisfied with the procedures for the recruitment and intended training of members of the IGP's policing and civilian staff. It wishes to be able to confirm this positive impression in its next report by examining more detailed information on the training actually dispensed and the number of staff trained by then. In the meantime, the second part of the recommendation is partly implemented.
110. GRECO concludes that recommendation xii has been partly implemented.

**Recommendation xiii.**

111. *GRECO recommended that risk management be improved within the police force, by devising a plan for gathering intelligence which will help identify problems, new trends in corruption and breaches of integrity, combined with a mechanism of regular assessment with a view to reducing or eliminating the risks identified.*
112. The Luxembourg authorities state that the procedure in the event of a member of the Grand Ducal Police (PGD) becoming over-indebted has been revised and incorporated in the service regulations. They believe that placing this procedure on a formal footing will make it possible to more easily identify risks of over-indebtedness and improve guidance for staff members affected by this problem. The procedure in the event of a member of the PGD becoming over-indebted, entailing the seizure or paying over of income, provides *inter alia* for an interview with the hierarchical superior to assess the situation and analyse the risk of corruption or other illicit conduct.
113. Besides this procedure, which is triggered immediately by the PGD once automatically notified by the State Treasury when income is seized or paid over, the general regulations governing civil servants, to which police officers are subject, does not

currently provide any legal framework for gathering information on the assets held by members of the PGD.

114. In addition, in order to spot new trends in the area of corruption and breaches of integrity, the PGD is seeking closer cooperation with the IGP. Following consultation between the PGD and the IGP on this point, it has been decided to systematically place this item on the agenda of the biannual cooperation meetings between the management of the PGD and the IGP. At the biannual cooperation meeting of 2 July 2020, new trends in the area of corruption and breaches of integrity were discussed as a topic. One new trend was noted in connection with the COVID-19 pandemic: some shopkeepers, restaurateurs and hairdressers had offered reduced rates for police officers, paramedics and care staff, and the PGD took direct action by issuing an intranet message to all staff, reminding them of the ethical principles to be observed. It also spoke to the traders in question. Finally, it should also be noted that the PGD is a member of the Committee for the prevention of corruption (COPRECO), set up in 2008, which coordinates anti-corruption efforts and is also tasked with identifying trends in the area of corruption.
115. GRECO takes note of the measures to implement the recommendation put forward by the Luxembourg authorities. The triggering of an analysis of the risks of corruption when a member of staff becomes over-indebted and their income is seized or paid over and the organisation of regular exchanges between the PGD and the IGP on new trends in corruption and breaches of integrity are certainly positive initiatives but these measures can be no substitute for a preventive and systematic analysis of risks of corruption within the police, highlighting the situations or departments most at risk, combined with a mechanism of regular assessment with a view to reducing those risks.
116. GRECO concludes that recommendation xiii has not been implemented.

#### **Recommendation xiv.**

117. *GRECO recommended (i) that a code of conduct for the Grand Ducal Police be adopted and published, with concrete examples and explanations regarding the conduct expected of police officers and (ii) that it be accompanied by credible and effective oversight and enforcement.*
118. Regarding the first part of the recommendation, the Luxembourg authorities explain that the previous charter of values of the PGD, drawn up in 2006, has been substantially reworked and its content expanded, among other things directly matching up the values with the vision defined by the PGD in 2018 of "a Police force, at your service, available and dealing accountability with phenomena in society". To ensure that the charter strikes more of a chord with the members of the PGD, it has been written in Luxembourgish, which is the language commonly used within the PGD. The new charter of values, printed in A2 format, was distributed to the departments and units so that it could be prominently displayed on police premises. It was also publicised in a departmental memorandum sent to all staff members, posted on the intranet and displayed as desktop wallpaper on workstations.

119. In addition, as the civil service has not made progress in defining a code of ethics covering all civil servants, the PGD has worked with an outside consultant and the IGP to devise its own code of conduct. The PGD also consulted the national representative in respect of GRECO when preparing it.
120. The PGD has followed GRECO's recommendation by adopting a code in two sections: the first formal section sets out the values of the PGD, and a second section entitled "commentaries to the articles" provides explanations and specific examples relating to the different values. It should be pointed out that the code of conduct is fixed in principle, but the commentaries to the articles may evolve in line with needs and feedback.
121. Given the tight timeframe, the code of conduct was incorporated in the service regulations and now forms part of a new chapter on "Ethics and values of the Grand Ducal Police". Like all the service regulations, this new chapter may be consulted by all staff on the intranet. A stricter regulatory framework is being considered, although there is a risk that this might result in the code of conduct becoming set in stone and less capable of evolving to address new trends and integrating practical case studies.
122. In order to inform the members of the PGD and raise their awareness of the new code of conduct, a departmental memorandum was published on the intranet and e-mailed to all staff. The code was also presented at a forum attended by all directors, heads of department and heads of unit. It was presented to the press by the minister-in-charge on 13 December 2019.
123. Regarding the second part of the recommendation, the authorities report that the code of conduct is binding for all PGD staff. It is made binding, in the case of policing staff, by the Law of 18 July 2018 on disciplinary regulations governing the policing staff of the Grand Ducal Police<sup>5</sup> and, in the case of civilian staff, by the amended Law of 16 April 1979 establishing the general regulations governing civil servants<sup>6</sup>.
124. The IGP will supervise compliance with the code of conduct, including through analysis of statistical data on alleged or confirmed violations and ethical questions brought to the attention of the Inspectorate and the confidential counselling mechanism (see recommendation xv). It will also draw on the criminal, administrative or disciplinary investigations it carries out and the relevant information received from the police. All this data will also enable it to adapt training to the needs. This is in addition to the oversight carried out by the hierarchy within the police. Under Article 9 para. 3 of the general regulations, any hierarchical superior has an obligation "to ensure that the officials placed under their orders or over whom they have disciplinary control carry out the duties incumbent upon them and to deploy, where necessary, the disciplinary means made available to them".

---

<sup>5</sup> Article 3 (1): "Police officers shall comply with the instructions of the government and the instructions of the other competent authorities with the purpose of lawful accomplishment of their tasks, as well as internal departmental rules and instructions".

<sup>6</sup> Article 9§1: "Officials shall conscientiously comply with the laws and regulations that determine the obligations incumbent upon them in the exercise of their duties. They shall similarly comply with the instructions of the government with the purpose of lawful accomplishment of their tasks, as well as the service orders given by their superiors".

125. Disciplinary investigations in respect of a member of policing staff, where a breach has been found, will be carried out by the IGP and may give rise to disciplinary sanctions. It goes without saying that where a breach constitutes a possible criminal act, criminal proceedings may be instigated against the member of PGD staff concerned. Disciplinary investigations in respect of civilian members of police staff are carried out by the government commissioner tasked with disciplinary investigations or their deputies.
126. GRECO takes note of the information provided. Regarding the first part of the recommendation, it welcomes the preparation and adoption of the PGD's code of conduct. This code is comprehensive and draws on sources such as the European Code of Police Ethics, the model code of conduct for public service staff, the codes of conduct of the police forces of the countries neighbouring Luxembourg and the Evaluation Report. It meets the requirements of the recommendation by including detailed commentaries and illustrative examples, which could be supplemented if necessary. The first part of the recommendation may therefore be considered as being fully implemented.
127. With respect to the second part of the recommendation, GRECO appreciates that the code of conduct is binding for all PGD staff and that breaches of its provisions may result in disciplinary and possibly criminal sanctions. This instrument is indeed a credible and effective sanctioning mechanism, in line with the recommendation. The obligation to report any act that may constitute a breach of the code and arrangements for oversight by hierarchical superiors and by the IGP also appear to be satisfactory. The second part of the recommendation may therefore also be considered as being implemented.
128. GRECO concludes that recommendation xiv has been implemented satisfactorily.

**Recommendation xv.**

129. *GRECO recommended (i) that a pluriannual programme of in-service training for police officers include ethical training and (ii) a mechanism be introduced for providing confidential advice to police officers with ethical dilemmas and issues.*
130. Where the first part of the recommendation is concerned, the Luxembourg authorities explain that a course entitled "Preventing corruption and promoting integrity", lasting six hours, has been added to basic training for policing staff trainees. It is the IGP which teaches this course, covering the following Criminal Code infringements: embezzlement, destruction of deeds and documents, extortion by a public official, unlawful taking of an interest, bribery and trading in influence, corruption of members of the judiciary and acts of intimidation committed against persons holding public office.
131. In 2019, in-service training for policing staff included a 75-minute module on "police ethics and prevention of corruption", also taught by the IGP ". This training is for police officers in the B1 and C1 salary groups with executive, chief or departmental head functions. This training was dispensed as part of six cycles of mandatory in-service training undergone by 115 staff members.

132. This is to be supplemented in 2020 by training on an identical subject geared to a specific target audience of police officers specialising in traffic offences. Again, the training will be provided by the IGP and include theoretical teaching and anonymised practical examples featuring the themes of the new code of conduct, whistleblowers and awareness-raising for police officers regarding risks relating to activities after leaving police duties. This mandatory training takes the form of eight two-hour in-service training sessions and is to be undergone by some 120 police officers in total. In the medium term, it is planned to introduce an e-learning module in this area. Training on a larger scale in the future will be considered, taking due account of the health safety requirements engendered by the COVID-19 crisis.
133. As for the second part of the recommendation, the authorities state that the PGD has introduced a confidential counselling mechanism for staff members who are unsure as to how to interpret the rules on ethics. The legal department has been designated as the point of contact for this purpose, given that its prerogatives include legal studies and analyses, monitoring of the law and case-law and assistance for staff in judicial procedures. The members of this department are law specialists who have the necessary profile and skills to provide staff with the advice needed regarding ethics.
134. Given its position in the organigram, the legal department has a degree of independence from the operational departments and units, which is comparable to that of a data protection officer or financial auditor. Consequently, there are no hierarchical relations between the legal department and the operational units and departments.
135. GRECO welcomes the measures taken by the PGD to implement the two parts of the recommendation. The in-service training activities and plans covering ethics appear satisfactory, as does the confidential counselling role assigned to the legal department.
136. GRECO concludes that recommendation xv has been implemented satisfactorily.

**Recommendation xvi.**

137. *GRECO recommended that integrity checks be introduced not only in the case of promotion decisions but also at regular intervals throughout police careers.*
138. The Luxembourg authorities state that, depending on their career path, members of the PGD may be subjected to checks on their integrity. But since no legal framework exists, the PGD is currently unable to gather information on its members' assets. This means that there can only be a limited degree of checking in accordance with the applicable laws.
139. Staff joining the Criminal Investigations Department (SPJ) undergo a selection procedure among other things, during which checks are carried out on their personal integrity. For the key posts, notably posts of head of department and head of section within the SPJ, the candidates undergo recruitment interviews. On the basis of the information gathered during these interviews, the candidates are selected or rejected by the criminal investigations police missions support committee, made up of the State prosecutor general, state prosecutors, the directing investigating judge of Luxembourg District

court, the Director general of the Grand Ducal Police, the Central director of the criminal investigations police, the Director of the SPJ and the Central director of the administrative police.

140. In recruitment procedures for key posts within the PGD (particularly heads of department, directors etc), selection is partly based on interviews in which the candidates' profiles and expertise are analysed, including how they stand on values.
141. GRECO notes that the arrangements described by the Luxembourg authorities are no different from those presented in the Evaluation Report, which suggests that no steps have been taken to follow up this recommendation. GRECO reiterates that risks of breaches of integrity may arise in the course of a police officer's career and that it is important to detect and take action regarding such risks. This applies not only to decisions on promotion but also on a regular basis throughout a staff member's career. GRECO encourages the Luxembourg authorities to find a means of carrying out such checks.
142. GRECO concludes that recommendation xvi has not been implemented.

**Recommendation xvii.**

143. *GRECO recommended that the rules on abstention be defined more clearly by including specific criteria, in particular marital and family ties.*
144. The Luxembourg authorities state that the rules on abstention have been incorporated in the new code of conduct. Article 10 specifies the general rule set out in Article 15 of the general regulations governing civil servants, expressly stipulating that:
145. "The members of the Police shall avoid any action or attitude that might undermine the presumption of impartiality. They shall avoid any conflict of interest and report any such conflict arising in the exercise of their duties to their hierarchical superior.
146. In accordance with Article 15 of the amended Law of 16 April 1979 establishing the general regulations governing civil servants, in carrying out their duties the members of the police shall not become involved in cases or matters in which they may have an interest resulting from personal, family or marital ties."
147. As the code of conduct is binding, a breach of Article 10 would result in disciplinary action.
148. GRECO takes note of the wording of Article 10 of the code of conduct, which specifies the general rule in the regulations governing civil servants by expressly mentioning marital and family ties. It also notes that the commentary to the code provides several examples of situations in which a police officer is required to abstain from any involvement. These measures meet the requirements of the recommendation, which may now be considered as being fully implemented. The authorities could however expand the commentary to the code with some other examples of personal ties or ties of friendship to more fully illustrate the full range of situations that could arise.

149. GRECO concludes that recommendation xvii has been implemented satisfactorily.

**Recommendation xviii.**

150. *GRECO recommended that the ban on accepting any gifts be set out in writing.*

151. The Luxembourg authorities explain that Article 5 of the code of conduct contains an express prohibition on accepting any gifts:

152. "The members of the Police shall conduct themselves with probity and integrity. They must not allow themselves to be placed or appear to be placed in a situation that obliges them to return a favour to any individual or entity whatsoever. Likewise, their conduct, both in public and in private, must not render them vulnerable to the influence of others.

153. They may not seek, accept or receive the promise, from any source, whether directly or indirectly, of favours, invitations or material benefits for them or their family or friends, whose acceptance could place them in conflict with the obligations and prohibitions imposed on them by laws and regulations and in particular the general regulations."

154. As the code of conduct is binding, a breach of this article would also result in disciplinary action. The prohibition of gifts and invitations is also one of the topics dealt with in staff training.

155. GRECO welcomes article 5 of the code of conduct and the very full commentary to that article, which provides numerous examples and explanations. These provisions fully implement the recommendation.

156. GRECO concludes that recommendation xviii has been implemented satisfactorily.

**Recommendation xix.**

157. *GRECO recommended that a study be conducted concerning activities by police officers after they leave the force and that, in the light of the findings, rules be adopted to ensure transparency and limit the risks of conflicts of interest.*

158. The Luxembourg authorities stated that a survey of activities after leaving the police has been carried out among staff having retired or left the force since 2017. In view of the legal provisions governing personal data protection, only those having previously agreed (151) received the PGD's questionnaire and took part in the survey. According to the PGD's statistics, 172 staff members left or retired from the force during the period from 2017 to mid-2019, when the questionnaire was sent out.

159. 47 questionnaires were sent back to the PGD, making a response rate of 31%. One retiree said that they had exercised a paid activity in 2018 and also indicated that they had been in contact with someone involved in the field of activity in which they had worked at the PGD. They further declared that their previous work at the PGD had made their new employer more receptive to their approach. That said, it should be pointed

out that there was no conflict between this activity as such and the activities of the PGD, as it was carried out in the humanitarian field in the employment of FRONTEX.

160. In the light of the responses to the survey, there do not appear to exist any problems of conflicts at present. The PGD will continue to monitor developments in this field periodically through new surveys.
161. GRECO takes note of the findings of the survey carried out by the PGD among staff having left their post since 2017. It also notes that, in the light of the survey's findings, the Luxembourg authorities have not thought it necessary to adopt specific rules to increase transparency and limit the risks of conflicts of interest at present. It commends the PGD's intention to continue monitoring developments in this area over the coming years.
162. GRECO concludes that recommendation xix has been implemented satisfactorily.

**Recommendation xx.**

163. *GRECO recommended that uniformed police officers be individually identifiable, for instance by means of identification numbers.*
164. The Luxembourg authorities explain that the PGD has decided to introduce a unique identification number for each police officer. Despite the fairly short timeframe and the lack of any specially earmarked budget for doing so, the police chose to issue a batch of four badges displaying the PGD's emblem and a unique identification number, made up of one letter and three digits, to all policing staff. The number is software-generated and unalterable. The badges were ordered from the supplier on 2 December 2019 and delivered in the first half of 2020. Distribution is under way.
165. It is mandatory for uniformed police officers assigned to an operational unit to wear the identification number on their individual bullet-proof vest, tunic and windbreaker jacket. Given the specific nature of motorbike leathers, PGD motorcyclists will have an identification number (without the PGD emblem), held in place by a magnet.
166. GRECO welcomes the PGD's decision to opt for the mandatory wearing of a unique and unalterable identification number by uniformed police officers and the arrangements to implement that decision. This will improve transparency, while protecting police officers' privacy and complies with the recommendations of the European Code of Police Ethics.
167. GRECO concludes that recommendation xx has been implemented satisfactorily.

**Recommendation xxi.**

168. *GRECO recommended that whistleblower protection be improved in the Grand Ducal Police.*

169. The Luxembourg authorities point out that article 21 of the code of conduct states that "no member of the Police may be sanctioned or be subjected to a discriminatory measure, whether direct or indirect, with regard to their assignment, training or the allocation of work within the department, for having reported or testified in good faith to acts that may constitute a professional infringement, including of the present code". They reiterate that the code is binding and breaching its provisions would result in disciplinary action.
170. In addition, any suspected breaches of the code may be referred anonymously to the legal department, which provides a point of contact and confidential counselling with regard to the interpretation of the code of conduct. It is governed by the principle of confidentiality of the information passed on to it.
171. GRECO takes note of article 21 of the code of conduct and the possibility of anonymously contacting the legal department and believes that these specific provisions meet the requirements of the recommendation. It encourages the authorities to broach the issues of the obligation to report breaches and the protection of whistleblowers in staff training so that awareness of these issues is raised at all levels of the hierarchy.
172. GRECO concludes that recommendation xxi has been implemented satisfactorily.

### **III. CONCLUSIONS**

173. **In view of the foregoing, GRECO concludes that Luxembourg has satisfactorily implemented eight of the twenty-one recommendations contained in the Fifth Round Evaluation Report.** Of the remaining recommendations, ten have been partly implemented and four have not been implemented.
174. More specifically, recommendations iv, xiv, xv, xvii, xviii, xix, xx and xxi have been implemented satisfactorily, recommendations i, ii, iii, vi, vii, viii, ix, xi and xii have been partly implemented and recommendations v, x, xiii and xvi have not been implemented.
175. With respect to top executive functions, GRECO welcomes the entry into force of the Law of 14 September 2018 on transparent and open administration, at long last enshrining citizens' general right of access to administrative documents, as per a request from GRECO dating back to 2003. GRECO also commends the government's adoption, on 20 December 2019, of a new code of conduct for members of government and a code of conduct for their advisers. The entry into force of those codes – postponed so that this report's conclusions could be taken into account, a commendable practice in the eyes of GRECO – will make it possible to fully implement a number of recommendations regarding persons entrusted with top executive functions. That said, there are certain improvements to be made in areas such as the making public of certain Ethics Committee opinions which currently remain confidential, senior officials' relations with third parties seeking to influence them and registers of interviews that take place between the two. Furthermore, despite the government's stated determination, there has been no progress in assigning powers to the judicial authorities to prosecute and

judge ministers for infringements. This hinges on the revision of the Constitution, which has been ongoing for several years.

176. Where the Grand Ducal Police (PGD) is concerned, GRECO welcomes the progress made in numerous areas. The entry into force of the Law on the General Police Inspectorate enshrines that body's independence from the Police it oversees. The measures taken regarding its budget and the recruitment and training of its members are viewed positively by GRECO at this stage. GRECO also welcomes the entry into force of the code of conduct of the PGD, which among other things lays down precise rules on abstention and gifts, breaches of which may result in disciplinary sanctions. In-service training on ethics has been reinforced and the obtaining of confidential counselling on the code's interpretation and application has now been made possible. A unique identification number has been introduced so that uniformed police officers can be identified and the protection of whistleblowers within the police has been strengthened. On the other hand, a real policy on risk management within the PGD is yet to be drawn up.
177. In view of the above, GRECO notes that further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. Pursuant to Rule 31 revised bis, paragraph 8.2 of its Rules of Procedure, GRECO invites the Head of delegation of Luxembourg to submit additional information regarding the implementation of the pending recommendations i to iii, v to xiii and xvi by 30 April 2022.
178. GRECO invites the authorities of Luxembourg to authorise as soon as possible the publication of the present report and to make it public.