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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

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

### *INTERIM COMPLIANCE REPORT*

### LIECHTENSTEIN

Adopted by GRECO at its 95<sup>th</sup> plenary meeting  
(Strasbourg, 27 November – 1 December 2023)

## **I. INTRODUCTION**

1. This *Interim* Compliance Report assesses the measures taken by the authorities of Liechtenstein to implement the recommendations issued in the Fourth Round Evaluation Report on Liechtenstein, which was adopted at GRECO's 85<sup>th</sup> Plenary Meeting (25 September 2020) and made public on 16 December 2020, following authorisation by Liechtenstein ([GrecoEval4Rep\(2019\)4](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. In the [Compliance Report](#), adopted at its 91<sup>st</sup> Plenary Meeting (17 June 2022) and made public on 21 July 2022 with Liechtenstein's authorisation, GRECO concluded that the very low level of compliance with the recommendations was "globally unsatisfactory", within the meaning of Rule 31 revised, paragraph 8.3 of its Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report and asked the Head of delegation of Liechtenstein to submit a report on the progress in implementing the outstanding recommendations.
3. As required by GRECO's Rules of Procedure, the authorities of Liechtenstein submitted a Situation Report on measures taken to implement GRECO's recommendations. This report was received on 28 June 2023 and, together with information supplied subsequently, served as the basis for the *Interim* Compliance Report.
4. GRECO selected Finland (in respect of parliamentary assemblies) and Austria (in respect of judicial institutions) to appoint rapporteurs for the compliance procedure. The appointed rapporteurs were Ms Katariina SIMONEN, on behalf of Finland and Mr Christian MANQUET, on behalf of Austria. They were assisted by the GRECO secretariat in drawing up this compliance report.
5. This *Interim* Compliance Report examines the state of implementation of the fifteen outstanding recommendations (i to ix and xi to xvi) since the adoption of the Compliance Report and provides an overall assessment of Liechtenstein's level of compliance with these recommendations.

## **II. ANALYSIS**

6. GRECO addressed 16 recommendations to Liechtenstein in its Evaluation Report. In the Compliance Report, GRECO concluded that recommendation x had been implemented satisfactorily, recommendations ix and xi to xiii, xv and xvi had been partly implemented and recommendations i to viii and xiv had not been implemented. Compliance with the outstanding recommendations is dealt with below.

### *Preventing corruption of members of parliament*

7. As a backdrop to this report, the authorities indicate that parliamentary elections took place in February 2021. Due to the very narrow result, the negotiations for the formation of a coalition government between the two leading political parties took longer than usual. The first working session of the newly elected Parliament therefore took place only at the beginning of May 2021.
8. The Parliamentary Service took up GRECO's recommendations together with the Presidium as early as possible and conducted internal consultations. In addition, external legal experts were consulted. The Presidium of Parliament subsequently decided on an order of priority for implementation of the recommendations. In 2021/2022, concrete options to implement the prioritised recommendations were

discussed internally with the parties represented in Parliament. This led to the drafting of amendments to the Rules of Procedure for Parliament (hereinafter "GOLT"),<sup>1</sup> which were submitted to the political groups and subsequently discussed twice in the plenary of Parliament (public debates during the sessions of Parliament in September and December 2022). The amended GOLT entered into force on 1 March 2023.<sup>2</sup>

### **Recommendation i**

9. *GRECO recommended that measures be taken to increase the transparency of the legislative process insofar as the preliminary examination of draft legislation by parliamentary commissions is concerned.*
10. GRECO recalls that this recommendation was not implemented in the Compliance Report.
11. The authorities of Liechtenstein stress that the number of standing commissions of the Liechtenstein Parliament is very limited. In addition, the commissions have a rather narrow focus, which is limited to very few topics of high relevance. According to Article 64 of the GOLT, there are only three standing parliamentary commissions, which deal with very specific topics: the financial commission (*Finanzkommission*); the foreign policy commission (*Aussenpolitische Kommission*); and the audit commission (*Geschäftsprüfungskommission*). The Parliament can also appoint special commissions. It may decide to set up an *ad hoc* legislative commission, composed of five members representing the parliamentary parties represented in Parliament. This special commission is mandated to deal with a specific legislative project and ceases to exist once the legislative project is completed. Currently, the EEA/Schengen commission (*EWR/Schengen Kommission*) is the only special commission in place. The commissions' work includes the examination of consequences of draft legislation or formulating recommendations on new drafts for the plenary of Parliament. Each draft legislation is subsequently discussed in two readings in the plenary, both of which are public. MPs are further free to refer to the content of the protocols of the commissions during plenary sessions. In this manner, transparency is to be upheld throughout the legislative process.
12. The authorities further stress that these commissions are only involved in the legislative process if a draft legislation falls under their mandate. For instance, the financial commission only discusses the financial implications and consequences of draft legislation. The same applies to the foreign policy commission. The audit commission is in charge of supervising all administrative and governmental activities, but does not get involved in discussions with regards to draft legislation. In conclusion, parliamentary commissions only have a very limited role in the legislative process and not every draft legislation is even discussed in the commissions before a discussion takes place in Parliament. The commissions are advisory commissions without decision-making authority. The discussion on the substance of draft legislation and relevant decisions takes place in the plenary of Parliament, which is public and also livestreamed through the Parliament's website. Due to the very narrow mandate of the commissions in combination with the sensitive nature of the topics they are dealing with (e.g. examination of activities of authorities in connection with specific persons, examination of payments, including personal data, etc.), it appears extremely difficult to further increase the transparency of their work, without potentially getting into conflict with data protection or the legitimate interest of the state for confidentiality.

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<sup>1</sup> *Geschäftsordnung für den Landtag des Fürstentums Liechtenstein* (GOLT); [LGBl. 2013 Nr. 9](#).

<sup>2</sup> *Abänderung der Geschäftsordnung für den Landtag des Fürstentums Liechtenstein*, 1 December 2022, [LGBl. 2022 Nr. 410](#).

13. GRECO takes note of the reasons provided by the authorities for not increasing the transparency of the legislative process around the work of parliamentary commissions. GRECO recalls that, in the Evaluation Report (paragraph 27), it found that "commissions can play a significant role in conducting preliminary examinations of legislative drafts before Parliament, which can include hearing government members, officials and experts". Even if the scope of work of parliamentary commissions on draft legislation appears to be very narrow, GRECO calls on the authorities to nevertheless give proper consideration to this recommendation. GRECO reiterates that measures to increase transparency should be taken so that the general public and media have ways of easily following the commissions' work when they are dealing with legislative drafts. As indicated in the Evaluation Report, this could be done for example by providing information online about meetings held, members present, experts heard as well as proposals and decisions made by the commissions, and by disclosing the composition of each commission, its programme of work and meeting agendas. In addition, documents received by commissions as part of their preliminary examination of draft legislation should as a rule become public, at least after commissions have finalised their reports to the plenary, unless there are justified reasons to keep such material confidential.
14. In view of the above, GRECO concludes that recommendation i remains not implemented.

#### **Recommendation ii**

15. *GRECO recommended that a code of conduct for members of parliament be adopted, covering various relevant integrity matters, containing practical guidance and being made accessible to the public.*
16. GRECO recalls that this recommendation was not implemented in the Compliance Report.
17. The authorities of Liechtenstein report that the new Article 9e of the GOLT stipulates that the Parliament issues a code of conduct for its members and makes it publicly available. The Code of Conduct for members of parliament entered into force on 1 March 2023, the same day as the amended GOLT, and is available on the Parliament's website.<sup>3</sup> The Code of Conduct addresses guiding principles, the main duties of the members (conduct obligations), conflicts of interest, gifts or other benefits, the responsibility of the extended Presidium of Parliament and the procedure regarding alleged violations of the Code of Conduct. Each article is accompanied by explanatory comments and thereby contains practical guidance. The Code of Conduct also expressly recognises the character of the Parliament as a Militia Parliament (that is a parliament composed of a majority of members who combine their professional activities with their parliamentary duties) and is subject to an ongoing review of its topicality and any need for adjustment by the Presidium of Parliament.
18. GRECO welcomes the adoption of a Code of Conduct for members of parliament, which entered into force on 1 March 2023. The Code has been made public on the website of the Parliament. It governs the broader conduct of MPs and deals with a number of integrity issues such as conflicts of interest, gifts and other advantages and relations with third parties (see also recommendations iii, iv and v, which implementation is assessed below), and contains practical guidance through some particular examples. However, GRECO notes that there are no provisions regarding accessory activities, financial interests and confidential information, as was recommended in the Evaluation Report. Further, GRECO considers that the guidance

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<sup>3</sup> <https://www.landtag.li/files/attachments/verhaltenskodex.pdf?nid=16070&groupnr=16070&lang=de>

provided in the Code would benefit from further development, for example, regarding contacts with third parties and gifts. While GRECO is mindful of the authorities' efforts in implementing the recommendation, this latter cannot be considered more than partly implemented.

19. GRECO concludes that recommendation ii has been partly implemented.

### **Recommendation iii**

20. *GRECO recommended that a requirement of ad hoc disclosure be introduced when a conflict may emerge between specific private interests of a member of parliament and a matter under consideration in parliamentary proceedings (in plenary or commission work).*
21. GRECO recalls that this recommendation was not implemented in the Compliance Report.
22. The authorities of Liechtenstein report that the new Article 9b, paragraph 4, of the GOLT stipulates that MPs, whose personal interests are directly affected by a subject of deliberation, are required to indicate this interest when speaking during a session of Parliament or in a commission. As foreseen in the new Article 9c of the GOLT, members of parliament, of commissions and delegations abstain from voting if they are directly and personally affected by an item under consideration. Representation of political interests, in particular of communities, political parties or associations, are not considered grounds for recusal. In disputed cases, the Parliament or the commission or delegation concerned will come to a final decision on the recusal after hearing the member concerned. Article 3 of the Code of Conduct contains further elements under the heading "conflicts of interests". Any member who becomes aware that s/he has a potential conflict of interest is immediately required to take the necessary steps to resolve the conflict, in accordance with the principles and provisions of the GOLT and the Code of Conduct. If this is not possible, s/he has to recuse him/herself, if necessary. If s/he is unable to resolve the conflict of interest, s/he is required to notify the Presidium of Parliament in writing. Furthermore, in cases of doubt, the MP may seek confidential counselling from the Presidium of Parliament.
23. Moreover, before taking the floor or voting in the plenary or in a commission of the Parliament, or when proposed as Chair or rapporteur, MPs are required to disclose any existing or potential conflict of interest in relation to the matter under consideration, if it is not already apparent from the information declared pursuant to Article 9b of the GOLT. Such disclosure is to be made in writing or orally to the Presidium of Parliament, or the respective Chair during the ongoing parliamentary session. This procedure is described with a practical example in the Code of Conduct.
24. GRECO welcomes that amendments to the GOLT as well as the newly adopted Code of Conduct clarify the circumstances in which a conflict of interest may occur and specifically deal with declarations of interests at the beginning of deliberations, in plenary or commission, in the event that an MP's personal interests would lead to a conflict. While GRECO notes that the system still much depends on self-discipline of MPs to step aside and not take part in a vote where there is a conflict of interest, GRECO is satisfied that written rules now provide for a systematic procedure for managing possible conflicts of interest as they arise, in connection with a specific topic being examined by Parliament at a given time, as required by the recommendation.
25. GRECO concludes that recommendation iii has been implemented satisfactorily.

### **Recommendation iv**

26. *GRECO recommended that rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public.*
27. GRECO recalls that this recommendation was not implemented in the Compliance Report.
28. The authorities of Liechtenstein indicate that the new Article 9d of the GOLT regulates the acceptance of gifts and other benefits. MPs may not claim, accept or be promised gifts or other benefits, either for themselves or for others, within the scope of their function. The acceptance of minor and socially customary advantages is not considered to be an acceptance of gifts. In addition, the new Code of Conduct regulates the acceptance of gifts and other advantages in more detail. According to Article 4 of the Code of Conduct, any gift exceeding the estimated value of CH 200 (approximately EUR 207) cannot be accepted. If MPs cannot refuse gifts for reasons of politeness in the overall interest of the State, they shall accept them as gifts for the State and the Presidium of Parliament will decide on their use thereof. Gifts with a value below CH 200 do not have to be declared or registered.
29. GRECO welcomes that the GOLT and the Code of Conduct include provisions on gifts and other benefits by MPs (including in kind), as required by the recommendation. These rules have been made public on the Parliament's website. When further developing complimentary guidance to the Code (see recommendation i), the authorities are encouraged to present additional examples of concrete situations where MPs may be hesitant as to whether a gift or other benefits should be refused outright or not.
30. GRECO concludes that recommendation iv has been implemented satisfactorily.

#### **Recommendation v**

31. *GRECO recommended that rules on contacts between members of parliament and third parties seeking to influence parliamentary proceedings be introduced.*
32. GRECO recalls that this recommendation was not implemented in the Compliance Report.
33. The authorities of Liechtenstein state that, according to Article 2 of the Code of Conduct, MPs are obliged, within the scope of their mandate, not to direct their actions or voting behaviour in the interest of a third person (natural or legal persons). They should not seek, nor accept, any direct or indirect financial benefit or other advantage in return for influencing or voting on parliamentary submissions made to Parliament or any of its committees; and should strictly avoid any situation that could amount to corruption.
34. GRECO notes that Article 2 of the Code of Conduct contains some rules concerning MP's relations with third parties who might seek to influence their parliamentary role. However, GRECO considers that complimentary provisions to these basic rules need to be developed. It will also be important to provide some more elaborated guidance to MPs on "do's and don'ts" in their relations with third parties, inside or outside Parliament, as reasoned before in this report (see recommendation i). In these circumstances, GRECO cannot consider that this recommendation has been fully implemented.
35. GRECO concludes that recommendation v has been partly implemented.

## **Recommendation vi**

36. *GRECO recommended (i) introducing a system of public declarations of the members of parliament's financial and economic interests (income, assets and significant liabilities); and (ii) that consideration be given to including in the declarations information on spouses and dependent family members (it being understood that such information would not necessarily be made public).*
37. GRECO recalls that this recommendation was not implemented in the Compliance Report.
38. The authorities of Liechtenstein now indicate that, with regard to part (i) of the recommendation, the new Article 9b of the GOLT stipulates that upon taking office and at the beginning of each year, each MP is required to provide certain information to the Presidium of Parliament (e.g. professional activities; further activities on their own account in management and supervisory bodies as well as advisory boards and similar bodies of Liechtenstein and foreign corporations, institutions and foundations under private and public law; advisory or expert activities for the Administration etc.). Furthermore, MPs have to indicate whether these activities are honorary or paid. The Parliamentary Service then draws up a public register of MPs' particulars, which is published on the Parliament's website.<sup>4</sup> Professional secrecy within the meaning of the Criminal Code (§ 310) and other relevant provisions of law remain reserved. As regards part (ii) of the recommendation, the authorities submit that, at this point, no new information can be provided.
39. GRECO takes note of the information submitted by the authorities, according to which MPs are now obliged to declare their professional and other activities, whether paid or not, when taking up their office and at the beginning of each year thereafter. These declarations are made public on the website of the Parliament. While this represents a step in the right direction, and may prove useful for addressing potential conflicts of interest, GRECO is concerned that the content of these annual declarations does not respond fully to the recommendation as nothing is included on income, assets and liabilities. As for the second part of the recommendation, GRECO notes that no further action has been carried out to consider including in the declarations information on spouses and dependent family members.
40. GRECO concludes that recommendation vi has been partly implemented.

## **Recommendation vii**

41. *GRECO recommended that measures be taken to ensure the appropriate supervision and enforcement of the future obligations concerning disclosure and the standards of conduct of members of parliament.*
42. GRECO recalls that this recommendation was not implemented in the Compliance Report.
43. The authorities of Liechtenstein report that, according to the amended Article 10, paragraph 2f, of the GOLT, the Presidium of Parliament is tasked with the assessment of the conduct of its members in accordance with Articles 9b to 9e (disclosure obligations, recusal, acceptance of gifts and other benefits and the code of conduct). Article 5 of the Code of Conduct further specifies these rules. An advisory committee ("extended" Presidium) has been set up to deal with suspected or reported violations of the Code of Conduct (Article 10, paragraph 1, of the GOLT). This committee deals

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<sup>4</sup> *Offenlegungspflichten Abgeordnete gem. Art. 9b GOLT*, available in German: <https://landtag.li/offenlegungspflicht>

with potential corruption-related issues in Parliament and provides assistance in this regard. While only parliamentary groups with parliamentary group status can sit on the actual Presidium, *all* parliamentary groups represented in Parliament have the right to sit on the "extended" Presidium in the context of the Code of Conduct. This new advisory committee is to examine the circumstances of alleged violations of the rules and has decision-making authority. The "extended" Presidium may seek advice from external experts. The handling of possible cases of conflict of interest on the initiative of a MP is to be concluded before such a conflict of interest has an influence on parliamentary action.

44. Furthermore, if an MP is accused of alleged violations of the Code of Conduct, the "extended" Presidium is to examine the circumstances of the alleged violation and hear the member concerned (Article 6 of the Code of Conduct). If the "extended" Presidium concludes that the member concerned has violated the Code of Conduct, it adopts a reasoned decision. The member concerned may appeal to Parliament within 14 days. The decision of the latter is final. After the expiry of the period of 14 days or after the decision of Parliament, the conclusion is to be announced by the President in Parliament and shall be published in a visible way on the website of the Parliament for the remainder of the electoral period. A report on the activities of the "extended" Presidium is to be included in the annual activity report of the Parliament. To date, no violation of either the provisions of the amended GOLT or the Code of Conduct has been reported.
45. GRECO welcomes that there is now a system of supervision of the Code through an advisory committee (extended Presidium), which may seek advice from external experts. GRECO has however misgivings as to the effectiveness and credibility of the Code's enforcement since the only available sanction is the publication of the decision determining that there has been a violation. Given that the possibility of applying appropriate sanctions depending on the breach and its severity has been left out, this recommendation cannot be considered more than partly implemented.
46. GRECO concludes that recommendation vii has been partly implemented.

### **Recommendation viii**

47. *GRECO recommended that (i) training and awareness-raising measures be taken in respect of members of parliament concerning the conduct expected of them under the rules on integrity and the declaration of interests; and (ii) MPs be provided with confidential counselling on these issues.*
48. GRECO recalls that this recommendation was not implemented in the Compliance Report.
49. The authorities of Liechtenstein report as regards part (i) of the recommendation that, at the beginning of a legislative term, all MPs are comprehensively informed (introductory training, information sheets, etc.) about the duties described in the Code of Conduct (acceptance of gifts, rules on abstentions, conflicts of interest, disclosure duties, etc.). According to the authorities, current MPs do not require additional training since they were all involved in the drafting of the Code of Conduct. Furthermore, information events with the involvement of experts (e.g. Office of the Public Prosecutor, relevant administrative and judicial authorities) are planned, at the latest at the beginning of the new legislative period.
50. As to part (ii) of the recommendation, the authorities indicate that MPs may seek confidential counselling from the Presidium of Parliament according to Article 3 paragraph 3 of the Code of Conduct, in connection with Article 9b, paragraph 4, of



the amended GOLT (in case of potential conflict of interest).<sup>5</sup> If an MP is unable to resolve the conflict of interest, s/he is to inform the Presidium of Parliament in writing. In cases of doubt, the MP concerned may seek confidential advice from the latter. An MP who requests confidential advice from the Presidium will be invited by the Presidium to its next meeting for an exchange of views. In the letter of invitation, members are informed that the matter is to be treated confidentially, *i.e.* that information is entrusted only to this body and that it has been agreed that the content and recommendations to third parties will not be disclosed. After the MP concerned has presented the facts of the matter and the matter has been discussed, the committee will explain its point of view and make a recommendation on how to proceed. The content of the discussion is not recorded, only the fact that a consultation within the meaning of Article 3 of the Code has been requested and has taken place (place/time/participants). Since the amendments to the GOLT, including the Code of Conduct, have only been in force for a short period of time, no request of advice from the Presidium has been made so far.

51. GRECO takes note of the ongoing efforts to raise the awareness of MPs in respect of integrity related rules. GRECO is looking forward to receiving more specific information on training sessions that are due to take place. As regards counselling opportunities for MPs, GRECO considers that the current system would benefit from further refinement, given the dual mandate of the extended Presidium (supervision and counselling) and the fact that it may turn to external persons for advice. Furthermore, the Code seems to circumscribe the provision of advice to issues relating to conflicts of interest, rather than more broadly to ethics and integrity related dilemmas that MPs may encounter when performing their function.
52. Therefore, GRECO concludes that recommendation viii has been partly implemented.

#### *Preventing corruption of judges*

53. The authorities first recall that the Liechtenstein Government published a draft consultation paper concerning legislative changes in the Judicial Appointment Act and the Public Prosecutors Act in July 2021, which aimed to implement many of GRECO's recommendations regarding judges and prosecutors. Comments on the draft consultation paper submitted until 10 September 2021 were considered and commented in the so called "Bericht und Antrag" Nr. 96/2021,<sup>6</sup> which was dealt with in a first reading by the Liechtenstein Parliament in December 2021. The legislative changes were subsequently adopted in the second reading in March 2022 and entered into force on 1 July 2022.
54. Regarding Recommendation x, which was implemented satisfactorily in the Compliance Report, the Liechtenstein authorities report that the Administrative Court has updated its Code of Conduct with additional concrete examples, which are available online.<sup>7</sup>

#### **Recommendation ix**

55. *GRECO recommended that (i) the role of the judiciary in the selection process of judges be significantly increased; (ii) all vacancies for posts of judges be made public by law and that the procedure be made more transparent; (iii) integrity requirement for the selection of judges be introduced and guided by precise and objective criteria which are to be checked before appointment and that such criteria be made public.*

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<sup>5</sup> Article 9b (4) of the amended GOLT stipulates that MPs whose personal interests are directly affected by a subject of deliberation shall point out these interests when they speak in Parliament or in a commission.

<sup>6</sup> [Bericht und Antrag Nr. 96/2021](#) der Regierung an den Landtag des Fürstentums Liechtenstein betreffend die Abänderung des Richterbestellungsgesetzes sowie des Staatsanwaltschaftsgesetzes.

<sup>7</sup> *Verhaltenskodex des Verwaltungsgeschichtshofs*, available at: <https://www.vgh.li/verhaltenskodex>.

56. It is recalled that in the Compliance Report, GRECO considered this recommendation partly implemented. GRECO welcomed that all vacancies for posts of judges were publicly advertised (thus fully meeting the second component of the recommendation). It however considered that additional steps were needed to increase the role of the judiciary in the selection process of judges (first component of the recommendation). Further, it called for the establishment of precise and objective criteria on integrity to be checked prior to judicial appointments (third component of the recommendation).
57. As regards part (i) of the recommendation, the authorities of Liechtenstein refer to the information already provided in the Compliance Report.
58. In relation to part (iii) of the recommendation, the authorities submit that the Rules of Procedure of the Judges' Selection Board were further amended to introduce specific integrity criteria, which are to be considered when candidates are selected.<sup>8</sup> The amendments entered into force on 24 February 2023. Article 4, paragraphs 4, 5 and 6, of the Rules of Procedure of the Judges' Selection Board now specify that when examining the requirement of integrity, particular consideration is to be given to whether: there is a legally binding conviction of the candidate to a prison sentence exceeding three months or to a fine of more than 180 daily rates for a misdemeanour or felony or whether such criminal proceedings have been opened against the candidate in the context of which there is a legally binding indictment; in the last five years, insolvency proceedings have been opened against the candidate's assets with final effect; in the last five years an application for the opening of insolvency proceedings against the candidate has been dismissed with final effect for lack of assets to cover costs; or in the last three years a fruitless seizure of the candidate has taken place. This also applies to foreign decisions and proceedings.<sup>9</sup> Furthermore, an application needs to contain a proof of integrity through the following elements: a criminal record certificate; an extract from the seizure register; an official confirmation that neither a legally binding rejection of an application for the opening of insolvency proceedings for lack of assets to cover costs has been issued nor legally binding insolvency proceedings have been opened; and if applicable, a certificate of disciplinary good conduct if the candidate was subject to disciplinary requirements in the course of his or her professional activities prior to his or her application.
59. GRECO welcomes the development of integrity criteria to be checked prior to judicial appointments and considers that the requirements of part (iii) of the recommendation have been met. GRECO however regrets that nothing new has been added on how the role of the judiciary in judicial appointments has been increased since the last reporting exercise. GRECO recalls its concern that judicial appointments are largely in the hands of the executive and legislative powers and that the statutory composition of the Judges Selection Board should be reviewed so that the role of the judiciary be given more prominence, with judges appointed by their peers.
60. GRECO concludes that recommendation ix remains partly implemented.

### **Recommendation xi**

61. *GRECO recommended that (i) the issue of the full professionalisation of all judges and limiting the number of part-time judges be given careful consideration; (ii) rules on conflicts of interest dealing with the specific situation of part-time judges also working as practising lawyer be introduced.*

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<sup>8</sup> *Abänderung der Geschäftsordnung des Richterauswahlgremiums*, 25 January 2023; [LGBI. 2023 Nr. 67](#).

<sup>9</sup> Foreign criminal decisions and proceedings may only be taken into account if the underlying act is also punishable by a court under Liechtenstein law at the time of commission.

62. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The first part of the recommendation had not been considered. As to part (ii) of the recommendation, GRECO welcomed the adoption of rules on conflict of interests dealing with the specific situation of part-time judges also working as practising lawyers in the newly adopted codes of conduct. It therefore concluded that this part of the recommendation had been implemented satisfactorily.
63. The authorities of Liechtenstein report that the Liechtenstein Government has issued a draft consultation paper concerning legislative changes in the Court Organisation Act and other laws.<sup>10</sup> This paper was published on 14 February 2023 and aims at reforming the system of courts in Liechtenstein in a significant way in order to comply with this recommendation. Its objective is to further advance the professionalisation of the Liechtenstein courts. The paper suggests remodelling the judicial courts landscape in Liechtenstein significantly in order to reduce the number of part-time judges from 43 to 23. The consultation period ended on 15 May 2023.
64. GRECO notes that a consultation process was launched in February 2023 regarding, *inter alia*, the issue of the professionalisation of judges and the limitation of the number of part-time judges. While the government considers a considerable reduction of part-time judges to be feasible, a full professionalisation of the judiciary at all levels does not seem practicable.<sup>11</sup> Although it is yet to be seen whether and which measures would be taken in this area, due consideration has been paid to the issues raised by the recommendation, as was requested by GRECO. The authorities may wish to keep GRECO informed of further action taken in this respect.
65. GRECO notes that the reduction of part-time judges envisaged in the draft consultation paper is the result of a controversial proposal to abolish the Supreme Court as the final instance of ordinary jurisdiction (third instance court) and to merge the Administrative Court with the Court of Appeal. GRECO believes that this proposal should be considered with the utmost caution.
66. GRECO concludes that recommendation xi has been implemented satisfactorily.

### **Recommendation xii**

67. *GRECO recommended that (i) training on integrity matters based on the future judicial code of conduct be set up; (ii) confidential advice be made available to all judges.*
68. It is recalled that in the Compliance Report, GRECO concluded that this recommendation had been partly implemented. Regarding part (i) of the recommendation, GRECO acknowledged that some training had been provided, but asked for more targeted sessions based on the judicial codes and tailor-made to the particular situation of judges in Liechtenstein. As to part (ii) of the recommendation, GRECO noted with satisfaction that a system for offering confidential counselling on integrity matters to all judges had been put in place. However, the position of adviser in charge of this counselling within the Association of Liechtenstein Judges had yet to be secured.

<sup>10</sup> Draft consultation paper "Vernehmlassungsbericht der Regierung betreffend die Abänderung der Verfassung, des Gerichtsorganisationsgesetzes und weiterer Gesetze (Reform im Justizwesen)": [https://www.llv.li/files/srk/vnb\\_-\\_abanderung-der-verfassung-gerichtsorganisationsgesetzes.pdf](https://www.llv.li/files/srk/vnb_-_abanderung-der-verfassung-gerichtsorganisationsgesetzes.pdf)

<sup>11</sup> Draft consultation paper, p. 40: "The current number of cases, combined with the challenge of recruiting personnel with the specific expertise required in certain subject areas, continue to make the involvement of part-time judges necessary and continue to represent an important addition to the professional expertise of the Liechtenstein judiciary. However, the goal is to reduce the number of part-time judges wherever possible and at the same time to strengthen the courts with full-time judges."

69. Regarding the first part of the recommendation, the authorities of Liechtenstein recalls that the codes of conduct adopted by all Liechtenstein courts deal with training on integrity matters and with developing further the adopted codes of conduct. As of fall 2023 and in collaboration with the "Private Universität im Fürstentum Liechtenstein", the Administrative Court will organise an annual training course on ethics, which is to be tailored to the situation/circumstances of Liechtenstein. These courses will not only be open to the judges of the Administrative Court, but also to all other judges of the Ordinary Courts, the Appeals Commissions and the Constitutional Court. The first course is scheduled for 15 December 2023.
70. As regards part (ii) of the recommendation, the authorities indicate that the Association of Liechtenstein Judges (*Vereinigung Liechtensteinischer Richter*) has established a position of adviser who offers confidential counselling on integrity matters to all judges and public prosecutors,<sup>12</sup> as already reported in the Compliance Report. The draft consultation paper concerning legislative changes in the Court Organisation Act and other laws launched by the Government (see above under recommendation xi) also addresses the securement of the system for offering confidential counselling. The draft Article 25a of the Judicial Service Act foresees that the Government appoints an advisory body from which judges and prosecutors may seek confidential advice, particularly on issues of ethics and integrity. Once this amendment will be adopted and will enter into force, the position will be legally secured.
71. GRECO takes note of the information provided by the authorities. Given that the annual training course on ethics, to be offered to all judges in Liechtenstein, has not yet taken place and that the position of adviser in charge of the confidential counselling has not been secured yet, GRECO still cannot consider the recommendation fully implemented.
72. GRECO concludes that recommendation xii remains partly implemented.

#### *Preventing corruption of prosecutors*

#### **Recommendation xiii**

73. *GRECO recommended that the notion of "personal and professional suitability" be further refined with criteria for assessing a prosecutor's integrity.*
74. It is recalled that this recommendation was partly implemented in the Compliance Report. GRECO welcomed the inclusion of personal integrity as a requirement for employment as a public prosecutor, in addition to the requirement of "unrestricted personal and professional suitability" (Article 33 of the Public Prosecutors Act). GRECO also noted that the authorities indicated some criteria, which could be found in different parts of the legislation and were to be used for assessing a prosecutor's integrity. In GRECO's view, this would need to be addressed in one document, which should be easily accessible and known to the candidates, in connection with the Public Prosecutors Act.
75. The authorities of Liechtenstein reiterate that Article 33 of the Public Prosecutors Act was amended and that the notion of "personal and professional suitability" was supplemented with the criterion of the prosecutor's integrity. Furthermore, the Office of the Public Prosecutor prepared the document "Explanations on the employment requirement of unrestricted personal integrity".<sup>13</sup> All candidates for a post of public prosecutor who are shortlisted will receive this document. These candidates must

<sup>12</sup> The function is currently exercised by a retired former president of the senate of the Supreme Court.

<sup>13</sup> "Erläuterungen zum Anstellungserfordernis der uneingeschränkten persönlichen Integrität" 1 June 2023 (document not public).

provide evidence of the required information<sup>14</sup> or will be asked about it during the interview. In addition, the absence of conflicts of interest is to be checked in the light of the provisions on excluded activities and on secondary employment of public prosecutors. The authorities state that, due to the small size of the country, the candidates and thus, for example, their political commitment, are known to the jury.

76. GRECO notes with satisfaction that specific criteria to assess the requirement of personal integrity for becoming a public prosecutor have been developed. This includes concrete provisions such as the absence of conflict of interest, in accordance with the recommendation.
77. GRECO concludes that recommendation xiii has been implemented satisfactorily.

#### **Recommendation xiv**

78. *GRECO recommended that adequate safeguards be added to Article 50 of the Public Prosecutors Act against it being used to dismiss a particular prosecutor as a retaliation measure.*
79. GRECO recalls that this recommendation was not implemented in the Compliance Report. GRECO noted that Article 50 of the Public Prosecutors Act had been amended, adding a condition to the termination of the service of a prosecutor on essential operational or economic grounds. However, GRECO did not consider that such an amendment addressed the underlying concerns of the recommendation by providing adequate safeguards against retaliation.
80. The authorities of Liechtenstein refer to the arguments already presented in the Compliance Report, i.e. to the new wording of Article 50 of the Public Prosecutors Act, as amended on 11 March 2022. Article 50 paragraph 1 provides that the government may terminate the employment relationship with a public prosecutor for essential operational or economic reasons, in particular in the event of a loss of financial resources, if the position cannot be eliminated in the near future via the natural fluctuation of the staff (i.e. retirement, resignation, no filling of vacant positions). Dismissal for economic reasons should therefore only be considered as a last resort. Additionally, the removal of the position from the employment plan must accompany the dismissal. This means that if a person is dismissed, the position cannot be filled again. This reportedly ensures that a prosecutor cannot be dismissed and replaced by another prosecutor. A dismissal must also be adequately substantiated and justified, setting out that the main reasons for the dismissal, which can only be operational or economic, are fulfilled. Finally, such a decision by the Government can be challenged in accordance with the provisions of the Law on State Administration (*Gesetz über die Landesverwaltungspflege, LVG*). In the authorities' view, Article 50 thus cannot be used to dismiss specific prosecutors as a retaliatory measure.
81. The authorities further stress that, in Liechtenstein, there is only one prosecutor's office with eight prosecutors. It is therefore not possible to "transfer" prosecutors to other prosecutor's offices or positions in the case of reduced workload. Therefore, the possibility should exist to dismiss a person and remove the position for essential operational or economic reasons if a timely reduction of the position through natural fluctuation is not possible. Within the last ten years, there have been eight new hires (replacement hires) due to retirements, terminations of employment by incumbent prosecutors, or the expiration of a previous position holder's fixed-term employment.

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<sup>14</sup> Current criminal record information and information on pending criminal proceedings, bankruptcy or insolvency proceedings initiated or which have not been initiated due to a lack of assets to cover costs in the last five years, and unsuccessful seizure of assets of the candidate in the last five years.

This underlines the natural personnel fluctuation in practice at the prosecutor's office, which has now been given an explicit legal priority.

82. GRECO notes that nothing new has been reported in addition to what was already presented in the Compliance Report. No legislative changes have occurred since then. It furthermore notes that the Fourth Round Evaluation Report clearly stated that Article 50 of the Public Prosecutors Act should be scrapped or that there should be at least safeguards adjoined to guarantee that it cannot be abused with a view to removing a prosecutor with ulterior motives (paragraph 134). While GRECO understands that, in the context of Liechtenstein, it might not be possible to scrap this provision altogether, it nevertheless encourages the authorities to revise its wording in light of the recommendation, for instance by introducing transparent and objectives guarantees.

83. GRECO concludes that recommendation xvi remains not implemented.

#### **Recommendation xv**

84. *GRECO recommended that a code of conduct, accompanied by explanatory comments and practical examples, be developed for prosecutors and made accessible to the public.*

85. GRECO recalls that this recommendation was partly implemented in the Compliance Report. GRECO welcomed the adoption of a Code of Conduct, but it noted that it had yet to be coupled by explanatory comments and practical examples.

86. The authorities of Liechtenstein now report that the Code of Conduct, adopted by the Office of the Public Prosecutor on 19 January 2022, was supplemented by a second document ("explanatory notes amending the Code of Conduct"), which was published in June 2023 on the website of the Office of the Public Prosecutor.<sup>15</sup> This document was also sent to all prosecutors. It contains explanatory comments and guidance for the interpretation of the provisions of the Code of Conduct.

87. GRECO notes with satisfaction that explanatory comments to complement the Code of Conduct were made public on the website of the Office of the Public Prosecutor, together with the text of the Code. These comments are coupled with some practical examples. GRECO appreciates the efforts of the Office of the Public Prosecutor to provide guidance regarding the implementation of the Code of Conduct, thus meeting the requirements of the recommendation.

88. GRECO concludes that recommendation xv has been implemented satisfactorily.

#### **Recommendation xvi**

89. *GRECO recommended that (i) training on various topics relating to ethics and integrity be provided on a regular basis for prosecutors, and (ii) the possibility be given to prosecutors of obtaining confidential advice on these subjects.*

90. It is recalled that this recommendation was partly implemented in the Compliance Report. Regarding the first part of the recommendation, training had been provided and further sessions were planned. Training was thus provided on a regular basis and this part of the recommendation had therefore been complied with. Turning to the second part of the recommendation, GRECO took note of the designation of an adviser within the Association of Liechtenstein Judges to provide confidential

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<sup>15</sup> Erläuterungen zum Berufskodex, available in German:  
<https://www.llv.li/de/landesverwaltung/staatsanwaltschaft/wissenswertes/berufskodex>

counselling on integrity matters to judges and prosecutors. However, this position had not been secured yet. Thus, this part of the recommendation had been partly implemented.

91. The authorities of Liechtenstein refer to the draft consultation paper concerning legislative changes in the Court Organisation Act and other laws, launched by the Government and which also addresses the securement of the system for offering confidential counselling (see above, recommendation xii). The draft Article 42a of the Public Prosecutors Act is to refer to draft Article 25a of the Judicial Service Act, which stipulates that the Government appoints an advisory body from which judges and prosecutors may seek confidential counselling, particularly on issues of ethics and integrity.
92. GRECO takes note of the information submitted by the authorities. Given that the position of adviser in charge of the confidential counselling has not been secured yet, GRECO still cannot consider that part (ii) of the recommendation has been fully implemented.
93. GRECO concludes that recommendation xvi remains partly implemented.

### **III. CONCLUSIONS**

94. **In the light of the foregoing, GRECO concludes that Liechtenstein has implemented or dealt with in a satisfactory manner six of the sixteen recommendations in the Fourth Round Evaluation Report.** Of the other recommendations, eight have been partly implemented and two have not been implemented.
95. More specifically, recommendations iii, iv, x, xi, xiii and xv have been implemented satisfactorily, recommendations ii, v, vi, vii, viii, ix, xii and xvi have been partly implemented and recommendations i and xiv have not been implemented.
96. Regarding members of parliament, GRECO is pleased to note that a Code of Conduct has been adopted. However, the Code needs to be further complemented with rules on accessory activities, financial interests and confidential information and with more comprehensive guidance, including on contacts with third parties and gifts. GRECO also welcomes that compliance with the Code of Conduct is to be monitored by a specific Committee. At the same time, it underlines that the success of the Code will depend on its effective enforcement, including the application of sanctions in case of breach. Additional efforts are required regarding confidential counselling and the effective implementation of awareness-raising measures. Members of parliament are required to declare outside activities, whether paid or not (and this information is public), but nothing is said as to income, assets and liabilities. No consideration has been paid to including in the declarations information on spouses and dependent family members (it being understood that such information would not necessarily be made public). Further progress will also need to be made with regard to increasing the transparency of the legislative process around the work of parliamentary commissions.
97. In the case of judges, GRECO welcomes that a list of specific criteria to be considered when examining the requirement of integrity in judicial appointments has now been introduced. It is also satisfied that careful consideration has been given to the issue of the full professionalisation of judges. However, the annual training course on ethics, to be offered to all judges in Liechtenstein, has not yet taken place and the position of adviser in charge of confidential counselling remains to be secured. Finally,

additional steps must be taken to increase the role of the judiciary in the selection process of judges.

98. With respect to prosecutors, GRECO acknowledges the significant efforts made by the authorities to implement the outstanding recommendations. Specific criteria to assess the requirement of personal integrity for becoming a public prosecutor have been developed and explanatory comments to complement the Code of Conduct for prosecutors have been made public. In contrast, adequate safeguards to Article 50 of the Public Prosecutors Act providing that the government may terminate the employment relationship with a public prosecutor are still missing.
99. In light of the foregoing, GRECO concludes that the current level of compliance with the recommendations is no longer “globally unsatisfactory” within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
100. In application of paragraph 8.2 of Article 31 of the Rules of Procedure, GRECO asks the head of the Liechtenstein delegation to provide a report on the measures taken to implement the outstanding recommendations (i.e. recommendations i, ii, v to ix, xii, xiv and xvi) by 31 December 2024 at the latest.
101. Finally, GRECO invites the Liechtenstein authorities to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make it public.