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**PARLIAMENTARY SEMINAR
ON PARLIAMENTARY INTEGRITY
PROMOTING TRANSPARENCY AND ACCOUNTABILITY
MEASURES FOR MEMBERS OF PARLIAMENT**

Hosted by the Italian Parliament

organised by
the Parliamentary Assembly of the Council of Europe

for

the Parliament of Albania and,

the Parliament of Bosnia and Herzegovina

Roma, Italy

26-27 October 2017

PROGRAMME

VENUE:

Room of the Defence Committee
And Sala Zuccari
Via degli Staderari, n. 2
Italian Senate
Roma, Italy

1. Background and rationale

The proposed Action is in line with PACE recommendations regarding Albania and Bosnia and Herzegovina and targets specific needs in several thematic areas, namely: the fight against corruption; freedom of expression and the media; and anti-discrimination. These areas are included in the Action Plans for Albania and for Bosnia and Herzegovina 2015-2017. Both countries are member states of the Council of Europe and part of the ten member States subject to the PACE monitoring procedure, which involves on-going dialogue with the authorities, regular reports and occasional debates on a state's progress in honouring its obligations and commitments to the Council of Europe standards. The Republic of Albania is an official candidate for accession to the European Union (EU) since June 2014. The European Parliament resolution of 15 February 2017 on the 2016 Commission Report on Albania "welcomes the Commission's recommendation for opening accession negotiations with Albania (...) and calls for the accession negotiations to be opened as soon as there is credible and sustainable progress in (...) the fight against organised crime and corruption". Bosnia and Herzegovina has also been recognised a potential candidate to EU membership.

With regard to fighting corruption and promoting good governance, both Albania and Bosnia and Herzegovina have signed and ratified the United Nations Convention against Corruption, as well as the Council of Europe Criminal Law Convention on Corruption and Civil Law Convention on Corruption and already complied with some recommendations made by Council of Europe independent monitoring bodies.

Albania

Anti-corruption policy continues to be high on the list of priorities of the Albanian Government. Key policy documents have been developed in government efforts to minimise corruption, including a new Anti-corruption Strategy and Action Plan (2007-2013). The national anti-corruption strategy (2015-2020) and action plan (2015-2017) were adopted in March 2015.

GRECO concludes in its 4th Evaluation Round Compliance Report (published in April 2016), that only one of the ten recommendations contained in the Evaluation Report has been implemented satisfactorily or dealt with in a satisfactory manner by Albania.

GRECO states "with respect to members of parliament, certain positive steps have been made towards the fulfilment of GRECO's recommendations. The moment of publication of initial bills has been clarified and certain tools have been introduced to better manage MPs' relations with representatives of public and private interests. The Code of Conduct for MPs is currently being developed, an internal mechanism for ad hoc disclosure of conflicts of interest by MPs has been set up and the scrutiny of MPs' assets has arguably been improved due to an accelerated disclosure of the filed asset declaration forms to interested third parties upon their request. Still, the progress made has been partial and fragmented. GRECO therefore reiterates the urgency of introducing a Code of Conduct for MPs and of regulating their contact with lobbyists and other third parties seeking to influence the legislative process. Also, the "case by case" notification of conflicts of interest by MPs has to become a regular practice so does the carrying out of more frequent full audits of the asset declaration forms filed and their prompt publication on an official web site."

According to the GRECO's evaluation report (published 27 June 2014, para. 56 and 57), "an MP enjoys functional immunity in that s/he is not liable for opinions expressed in the Assembly and votes cast, except in the case of defamation. As for procedural immunity, a deputy may not be arrested or deprived of liberty in any way or subjected to a personal or house search without the Assembly's consent. In September 2012, constitutional amendments altered the previous regime for MPs' arrest and detention when apprehended in flagrante delicto or immediately after the commission of a crime. The revised Article 73 of the Constitution stipulates that these measures may now be applied without the Assembly's permission and are subject to immediate notification by the Prosecutor General. If the Assembly determines that these measures are ill-founded, it asks for them to be lifted. Additionally, in 2011, the Assembly adopted a decision, which became an integral part of its Rules of Procedure. It allows an MP to voluntarily restrict his/her immunity for the duration of the mandate by consenting in writing to the launch of a criminal prosecution for active

and passive corruption. Over the past few years, three cases where MPs were suspected of corruption and/or abuse of office were investigated. None were found guilty.”

“For years, [GRECO reports that] the immunity of high-level officials, including MPs and judges, has been a barrier to the effective fight against corruption in Albania. From this perspective, the revised constitutional provisions represent an important milestone and facilitate the investigation of suspicious acts and corruption offences committed by MPs. At the same time, while on-site, the aforementioned legislative amendments were subject to contradictory interpretation: while some interlocutors did not put into doubt the direct applicability of the constitutional provisions, others insisted that no major corruption cases had emerged since 2012 due to the absence of corresponding amendments to the Criminal Procedure Code, without which constitutional provisions were inapplicable in practice. The authorities are therefore encouraged to remove any obstacles to the implementation of the revised Article 73 of the Constitution to avoid its arbitrary interpretation.”

Bosnia and Herzegovina

Corruption in Bosnia and Herzegovina penetrates all spheres of its economy and society and many of the measures taken to prevent and fight corruption over the years derive from international pressure, but compliance with Council of Europe’s standards remain weak. The adopted laws (Law on Conflict of Interest, Public Procurement Law, provisions in the Criminal Code, Law on Witness Protection, Law on Financing Political Parties etc.) have brought Bosnia and Herzegovina closer to international standards. Yet, the country is currently subject to GRECO’s compliance procedure on the implementation of the 15 recommendations GRECO issued in its Fourth Evaluation Round (published in February 2016).

According to GRECO, “positive measures have been taken to enhance access to information regarding parliamentary work. More steps could be taken in the future to widen opportunities for public participation in the development, implementation and revision of legislation as a key tool to further strengthen the public oversight of parliamentary activities, as well as to provide transparency regarding the interaction of parliamentarians with third parties seeking to influence the parliamentary process. Some tools are in place to promote integrity principles in the legislature and to regulate and limit those activities that may compromise the parliamentary mandate by raising conflicts of interest. It is important to ensure that the enactment of separate legislation on conflicts of interest at Entity/BD level, and the establishment of separate oversight institutions, does not lead to inconsistent standards in the respective parliaments. This situation deserves close follow-up.”

GRECO adds that “the monitoring and enforcement regime for integrity and conflict of interest prevention in the legislature needs to be strengthened significantly. While parliamentarians have an obligation to adhere to the ethical standards laid out in the Code of Conduct and the relevant internal Rules of Procedure, it is not clear how misconduct could trigger punishment. Likewise, the existing bodies monitoring conflicts of interest have important shortcomings regarding the effectiveness of their role: they either lack the required powers or independence to ensure abidance by the rules. Finally, the asset disclosure regime suffers from crucial shortcomings as regards the transparency and the actual control of the declarations submitted.”

In April 2014, it was decided to expand the EU-Bosnia and Herzegovina Structured Dialogue on Justice to include additional rule of law measures, such as anti-corruption policies (including prevention of conflict of interests). The recommendations addressed to Bosnia and Herzegovina by the EU focused mainly on inclusive development of a new anti-corruption strategy, enforcement of procurement legislation, whistle-blower protection and issues relating to conflicts of interest, party finance, freedom of information and money laundering.

According to the conclusions of a conference on a reform of the current State Law on Prevention of Conflicts of Interest, organised in Sarajevo in May 2017, a parliamentary committee is currently discussing a draft law on conflicts of interest, with the support of international experts. The bill should be debated in the course of 2017.

Regarding immunities, “MPs benefit from non-criminal and non-civil liability for actions taken in the course of duty. In 2002, the Office of the High Representative enacted the Law on Immunity which became applicable to the entire territory of Bosnia and Herzegovina. Decisions on immunity are to be taken by the competent court of law” (para. 72 GRECO Evaluation report).

Italy

GRECO’s recent publication (19 January 2017) of its evaluation of Italy’s situation acknowledges “more decisive steps taken on the anticorruption front by complementing stronger punitive measures with comprehensive prevention mechanisms aimed at spreading a culture of efficiency and integrity in the delivery of public services, ultimately boosting economic growth and regaining public trust. The National Anticorruption Authority (so-called ANAC), the key coordinating body in Italy for corruption prevention and transparency of public administration purposes, is playing a most valuable role with its proactive and determined leadership. A broad Anticorruption Plan (2017-2019) is in the pipeline; it comprises multifaceted measures, including strengthened control of conflicts of interest. The Italian parliament is currently studying a draft law on conflicts of interests.”

“Positive measures have been taken in recent years to enhance access to information as a key tool to further strengthen the public oversight of parliamentary activities. Likewise, salient efforts have recently been displayed to issue a Code of Conduct and Rules on Lobbying for the Chamber of Deputies; the Senate has yet to embark on a similar path. The aforementioned instruments are undoubtedly steps in the right direction on a long journey to recast public trust in politicians. Indeed, the growing disenchantment of Italian citizens with its politicians and political parties calls for decisive action in Parliament to build up its accountability regime. For this reason, the Code of Conduct, adopted on 12 April 2016, represents a cornerstone achievement of the current legislature; it further requires greater formalisation through its incorporation to the Rules of Procedure. The Code has been initially launched as an “experimental project”, and as such, it will require further fine-tuning on its specific coverage (e.g. gifts, hospitality, favours and other benefits, conflicts of interest, financial declaration, etc.), enforcement, awareness raising and advisory machinery. The same applies to the Rules on Lobbying, which were adopted by the Chamber of Deputies on 26 April 2016. In point of fact, the move of former MPs to the lobbying industry has recurrently been signalled as a source of concern in Italy.”

Furthermore, the GRECO adds that “the status of parliamentarians is still generally governed by laws adopted in the 70s barely updated ever since, and dispersed in different regulatory instruments which have never been systematised, this is particularly relevant regarding the conflict of interest regime, which is currently undergoing changes.”

“Parliamentary immunity in the Italian system, as regulated in the Constitution, consists of:

- a. non-liability (freedom of speech or “*insindacabilità*”) of members of parliament for the opinions expressed or votes cast in the performance of their function. The notion of parliamentary function has been interpreted in broad terms (vocal, written and material behaviours);
- b. inviolability (procedural immunity or “*improcedibilità*”) of members of parliament protecting them, during their mandate and in connection with the performance of official duties, from pre-trial arrest (except in the case of *flagrante delicto*), house search, interception of their communications and seizure of their correspondence. Unlike non-liability, inviolability protects the member as long as parliamentary mandate lasts. Once the person is no longer a member of parliament, procedural immunity is no longer applicable, even if the trial deals with facts that took place during the term of office.

The relevant procedure for lifting parliamentary immunity is dealt with by the Parliament itself at a court’s request. More particularly, immunity matters are referred to a special committee in each House (*Giunta delle autorizzazioni* in the Chamber of Deputies and *Giunta per le immunità* in the Senate, respectively) which looks at the relevant documentation and offers the member involved a chance of being heard. Then the Committee makes a decision and files a report to the relevant House recommending to either grant the immunity in the specific case or to consider it not applicable. Once the decision is taken by the House, it is communicated to the judge (the decision

to grant/lift immunity must take place within 30 days following the application of the responsible judge). A decision of Parliament not to lift immunity may be challenged by the court in the Constitutional Court in a procedure of conflitto d'attribuzione (i.e. a challenge between two branches of power, the legislative and the judiciary, Article 134(2), Constitution)."

The Constitutional Court has ruled in the field of parliamentary privilege several times in recent decades in order to develop its scope and meaning. In this connection, the Constitutional Court has repeatedly stressed that "the safeguards and guarantees provided for by Article 68 of the Constitution (immunity) aim at protecting the parliamentary institutions as a whole, and not at creating personal privileges for senators or deputies". More than once, the Constitutional Court has repealed the immunity granted by Parliament. Likewise, the European Court of Human Rights (ECHR), has also had a say on this matter, notably, by ruling against the broad interpretation made by the Italian system of the notion of parliamentary immunity in so long as it may lead to an unjustified break of the right of third parties to a fair trial.

Given the above elements, the proposed joint seminar shall provide a timely opportunity for enhanced dialogue "on promoting transparency and accountability measures for members of parliament", adopting a peer-to-peer approach, between parliamentarians of the Parliaments of Albania and Bosnia and Herzegovina and members of parliaments of other Council of Europe member States, in particular members of the Parliament of Ukraine and the host Parliament of Italy. Good practices shall be shared and synergies created with local and international civil society and institutions in the field of corruption prevention. This event will promote Council of Europe standards, and in particular GRECO recommendations, and allow for the identification of concrete areas to improve the implementation of the legislative frameworks on anti-corruption mechanisms and good governance, in Albania and Bosnia and Herzegovina.

2. Participants

Members of the parliament of Albania and members of the House of Representatives and the House of Peoples of Bosnia and Herzegovina

Members of the Assemblies of the two entities (Republika Srpska and Federation of Bosnia and Herzegovina) and Brčko District of Bosnia and Herzegovina

Members of parliaments (Italy, Ukraine) represented in the Parliamentary Assembly of the Council of Europe

International experts

Representatives of civil society

Representatives of the OSCE and the European Union

Media

3. Working Languages

Working languages will be English, Italian, Albanian, and Bosnian/Croatian/Serbian with simultaneous interpretation provided.

4. Background documents

Please refer to Appendix I.

DRAFT PROGRAMME¹

Thursday 26 October 2017

9.30 – 9.50am *Registration of participants at Via degli Staderari, n. 2*

10.00 - 10.45am

Defence Committee Room, Senato

OPENING SESSION

Welcome by **Mr Michele NICOLETTI**, Member of the Italian Parliament, and Chairperson of the Italian Delegation to the Parliamentary Assembly of the Council of Europe (PACE)

Mr Ervin BUSHATI, Member of the Parliament of Albania and Chairperson of the Albanian Delegation to the PACE

10.45 – 11.15am *Coffee break*

11.15am-1.30pm

SESSION 1: CONFLICTS OF INTEREST AND RISKS TO PUBLIC INTEGRITY

This session will provide an overview on what types of behaviour are likely to be considered as conflicts of interest according to international standards. It aims at identifying the next steps to harmonising the legislation on conflicts of interest.

Chair and introductory remarks: **Mr Serhii KIRAL**, Member of the Parliamentary Assembly of the Council of Europe (Ukraine)

Speakers: **Ms Vasilika HYSI**, Deputy Speaker of the Parliament of Albania

Ms Ivana KORAJLIĆ, Public Relations Programme Manager, Transparency International (Bosnia and Herzegovina)

Mr Christophe SPECKBACHER, GRECO Secretariat

Discussion

1.30pm – 2.45 pm *Lunch hosted by the Parliamentary Assembly of the Council of Europe*

2.45pm – 6.15 pm

Defence Committee Room, Senato

SESSION 2: SUPERVISION AND ENFORCEMENT OF RULES ON CONFLICTS OF INTEREST

This session aims to review the advisory, supervisory and enforcement

¹ Note:

- Roles of the Chairs: Neutrality and Fairness, Time-keeping, Encouragement, Substance, Focus on concrete commitments
- Speakers are asked to not exceed 8-10 minute presentations. They are invited to provide substantial contributions to the discussions and give their final opinion on the situation at the end of the discussion.
- The General Rapporteur will be asked to provide conclusions of the seminar and write a substantial written report (5 pages) to be shared with participants following the event.

regime regarding conflicts of interest, with a view to ensuring its independence and timeliness and making it effective through a system of appropriate sanctions. It will provide tailored guidance on the implementation of corruption-prevention provisions.

Introductory remarks: **Giuseppe PISICCHIO**, Member of the Italian Parliament

Chair: **Mr Serhii KIRAL**, Member of the Parliamentary Assembly of the Council of Europe (Ukraine)

Speakers: **Ms Evgjeni BASHARI**, Representative of the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests, Albania

Mr Jasmin EMRIC, Member of the Parliament of Bosnia and Herzegovina and Representative of the Commission for Deciding on Conflicts of Interest, Bosnia and Herzegovina

Mr Joeri MAAS, Chief of Policy and Planning, OSCE Mission to Bosnia and Herzegovina

Ms Emilie CAZENAVE, Head of International Cooperation, *Haute Autorité pour la transparence de la vie publique* (France)

Discussion

Friday 27 October 2017

9.00 – 9.30am *Registration of participants at Via degli Staderari, n. 2*

9.30 am – 10.45pm

GUIDED TOUR OF THE ITALIAN SENATE

11.00 – 1.00pm

Sala Zuccari (Senato)

HIGH LEVEL ITALIAN EVENT

"Promoting integrity in governance to combat political corruption"

Opening by **Mr Pietro GRASSO**, President of the Senate

Presentation of the PACE Resolution 2170 (2017) *"Promoting integrity in governance to combat political corruption"*

Mr Michele NICOLETTI, Member of the Italian Parliament, and Chairperson of the Italian Delegation to the PACE

Round Table

Chair **Ms Eleonora CIMBRO**, Member of the Italian Parliament and the Italian Delegation to the PACE

Speakers

Mr Jan KLEIJSEN, Council of Europe Director of the Information Society and Action against Crime Directorate

Mr Marcin WALECKI, Head of Democratization Department, Office for Democratic Institutions and Human Rights (ODHIR)

Mr Kieran L. RAMSEY, Representative of the FBI at the American Embassy in Italy

Mr Nicola BONUCCI, Director Legal Affairs, Organisation for Economic Co-operation and Development (OECD)

Concluding remarks

Mr Raffaele CANTONE, President of the Italian National Anti-Corruption Authority

1.00pm – 2.30 pm Lunch hosted by the Italian Parliament

2.30pm – 6.00 pm

Defense Committee Room, Senato

SESSION 3: Parliamentary immunity

This session aims to review the legislation on parliamentary immunities and its implementation in Albania and Bosnia and Herzegovina.

Chair: **Ms Tamara BLAZINA**, Member of the Italian Parliament, and member of the Italian Delegation to the PACE

Speakers: **Mr Luis Alberto ORELLANA**, Member of the Italian Parliament, and member of the Italian Delegation to the PACE

Mr Serhii KIRAL, Member of the Parliamentary Assembly of the Council of Europe (Ukraine)

Mr Yves-Marie DOUBLET, Expert with the Council of Europe (GRECO), Deputy Director of the Department of budget, financial control and procurement, National Assembly (France)

Ms Aurela ANASTAS, Professor, Faculty of Law, University of Tirana, Albanian member of the Venice Commission

Discussion

CLOSING SESSION

Conclusions by: **Quentin REED**, General Rapporteur for the seminar and Independent anti-corruption consultant

Mr Senad ŠEPIĆ, Member of the Parliament of Bosnia and Herzegovina, and Chairperson of the Bosnia and Herzegovina Delegation to the PACE

Mr Ervin BUSHATI, Member of the Parliament of Albania and Chairperson of the Albanian Delegation to the PACE

Ms Tamara BLAZINA, Member of the Italian Parliament, and member of the Italian Delegation to the PACE

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APPENDIX I - BACKGROUND DOCUMENTS

Parliamentary Assembly of the Council of Europe

- [Recommendation 2105 \(2017\) on promoting integrity in governance to tackle political corruption](#)
- [Resolution 2170 \(2017\) on promoting integrity in governance to tackle political corruption](#)
- [Resolution 2127 \(2016\) on parliamentary immunity: challenges to the scope of the privileges and immunities enjoyed by members of the Parliamentary Assembly](#)
- [Recommendation 1908 \(2010\) on lobbying in a democratic society \(European code of good conduct on lobbying\)](#)
- [Reply to Recommendation 1908 \(2010\) on lobbying in a democratic society \(European code of good conduct on lobbying\)](#)
- [Resolution 2019 \(2014\) on the honouring of obligations and commitments by Albania](#)

GRECO

- [GRECO's Compliance report for Albania, Fourth Evaluation Round, 15 April 2016](#)
- [GRECO's Evaluation report for Albania, Fourth Evaluation Round, 27 June 2014](#)
- [GRECO's Evaluation report for Bosnia and Herzegovina, Fourth Evaluation Round, 22 February 2016](#)
- [GRECO's Evaluation report for Italy, Fourth Evaluation Round, 19 January 2017](#)
- [Brochure on GRECO](#)

Venice Commission

- [Report on the scope and lifting of parliamentary immunities adopted by the Venice Commission at its 98th plenary session \(Venice, 21-22 March 2014\)](#)
- [Revised comparative table on the lifting of parliamentary immunity, Venice Commission, February 2014](#)
- [Report on exclusion of offenders from parliament adopted by the Venice Commission at its 104th plenary Session \(Venice, 23-24 October 2015\)](#)

Other Council of Europe documents

- [Criminal Law Convention on Corruption \(2002\)](#)
- [Civil Law Convention on Corruption \(2003\)](#)
- [Recommendation No. R\(2000\) 10 of the Committee of Ministers to member States on codes of conduct for public officials](#)
- [Recommendation No. R\(2017\) 2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making](#)
- [Council of Europe Programmatic Cooperation Document for Albania 2015-2017](#)
- [Action against Economic Crime in Albania](#)
- [Council of Europe Action Plan for Bosnia and Herzegovina 2015-2017](#)
- [GR-DEM\(2016\)14 Bosnia and Herzegovina: Compliance with obligations and commitments](#)

European Union

- [EU report on Albania \(2016\)](#)
- [EU report on Bosnia and Herzegovina \(2016\)](#)

Transparency International

- [Transparency International Corruption perceptions index 2016](#)
- [Report on Fighting Corruption in the Western Balkans and Turkey: Priorities for Reform, 10 November 2016](#)
- [Transparency International Project on National Integrity Systems in the Western Balkans](#)
- [National Integrity System Assessment, Albania, Transparency International, June 2016](#)
- [Transparency International in Bosnia and Herzegovina](#)
- [Monitoring the implementation of anticorruption reforms in Bosnia and Herzegovina, Summary, Transparency International, December 2016](#)

- [Conflicts of interest policies in Bosnia and Herzegovina, Policy paper by Transparency International and the German Council on Foreign Relations, October 2014](#)
- [National Integrity System Assessment, Bosnia and Herzegovina, Transparency International, November 2015](#)

United Nations

- [UN Convention against Corruption](#)

Albania

- [Constitution of the Republic of Albania](#)
- Law No. 9049, dated 10.04.2003, “On the declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials”
- [Law No. 9367, dated 07.04.2005 “On the Prevention of Conflicts of Interest in the Exercise of Public Functions”](#)
- [Rules of procedure of the Assembly of Albania \(in Albanian\)](#)
- [The High Inspectorate of Declaration and Audit of Assets and Conflict of Interests](#)
- [Conflict of Interest in Albania, Regulatory Framework and Challenges to Implementation, Institute for Democracy and Mediation, Konrad Adenauer Stiftung, October 2014](#)

Bosnia and Herzegovina

- [Constitution of Bosnia and Herzegovina, and Rules of procedure of the house of representatives of the parliamentary assembly of Bosnia and Herzegovina](#)
- [Decision Enacting the Law on Immunity of Bosnia and Herzegovina, Office of the High Representative](#)
- [Law on Conflict of Interest at Government Institutions of Bosnia and Herzegovina](#)
- [Law on Conflict of Interest at Government Institutions of the Federation of Bosnia and Herzegovina](#) (English not available)
- [Law on Prevention of Conflict of Interest at Government Institutions of Republika Srpska](#) (English not available)
- [Law on Conflict of Interest at Institutions of Brčko District of Bosnia and Herzegovina](#)