



Secretariat of the Group of States against Corruption
(GRECO)
Council of Europe
F-67075 Strasbourg Cedex
France

Ministry of the Interior and
Kingdom Relations

Turfmarkt 147
The Hague
The Netherlands
www.rijksoverheid.nl
www.facebook.com/minbzk
www.twitter.com/minbzk
[www.linkedin.com/company/
ministerie-van-bzk](https://www.linkedin.com/company/ministerie-van-bzk)

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2022-0000723200

Your reference

Enclosure(s)

Date 29 december 2022
Subject Situation report of the Netherlands - 5th Evaluation Round

Dear Sir/Madam,

At its 81st Plenary meeting (December 3 – December 7, 2018), the Group of States against Corruption (GRECO) adopted the Evaluation Report on the Netherlands in the fifth evaluation round. In the Dutch context the fifth round regards ministers and state secretaries (part 1) and the National Police (NPN) and Royal Netherlands Marechaussee (Kmar) (part 2).

In this report GRECO addressed 16 recommendations to the Netherlands and asked the Head of delegation of the Netherlands to submit information regarding the implementation of the recommendations by 30 June 2020. This deadline was extended by GRECO to 30 September 2020, due to the COVID-19 pandemic.

During the 87th Plenary meeting (March 22 – March 25, 2021), GRECO discussed and adopted the Compliance Report of the Netherlands in the fifth evaluation round. In the compliance report, GRECO concluded that the Netherlands had satisfactorily implemented none of the sixteen recommendations contained in the Fifth Round Evaluation Report. Eight recommendations have been partly implemented and eight recommendations have not been implemented. GRECO invited the Head of delegation of the Netherlands to submit additional information regarding the implementation of all recommendations by 30 September 2022. GRECO informed the Netherlands that the deadline for the additional information was extended to the end of December 2022.

With this letter I provide you with the information on the follow-up and relevant actions taken in the Netherlands since the adoption of the compliance report.

Follow up

In accordance with GRECO's rules of procedure, the compliance report was translated and made public. The minister of the Interior and Kingdom Relations, the minister of Justice and Security and the minister of Defense shared the compliance report with the House of Representatives on July 6, 2021¹.

¹ The compliance report is publicly available and can be found here:
[https://www.tweedekamer.nl/
kamerstukken/brieven_regering/detail?id=2021Z12785&did=2021D27466](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2021Z12785&did=2021D27466)

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The minister of the Interior and Kingdom relations informed parliament with a parliamentary letter about the situation and foreseen progress with regards to the implementation of the recommendations. The letter informed parliament among others about the intention to develop post-employment rules for former members of government, a code of conduct for members of government and measures for conflict of interests in the private sphere.

Regarding the NPN and KMar, the letter emphasized that both organizations have a well-developed integrity policy, which continuously needs to be further developed and improved. The letter stressed that this continuous process takes time. The letter further stated that the progress achieved until then, as noted by GRECO in its compliance report, encouraged both the NPN and KMar to continue with the implementation of GRECO's recommendations. Finally, the letter provided a brief overview of the then-current status of implementation of each recommendation.

This letter will go into detail about the implementation of the individual recommendations since the adoption of the compliance report. On a more general note, the Dutch government would like to emphasize that it very much welcomes the international cooperation on the fight against corruption and strengthening of public integrity. In addition to the evaluations by GRECO and the European Commission, Dutch policy in the field of anti-corruption and integrity is evaluated by the Organization for Economic Co-operation and Development (OECD) and the United Nations (UN). Taking into account the Dutch context and legal principles, the government is committed to implement the recommendations received by the international organizations. The recommendations are aimed at strengthening the integrity of the public sector, which is of great importance to society's trust in government. This does not alter the fact that recommendations are often comprehensive and require an extensive and careful process prior to implementation. This contributes to the effectiveness of the measures taken. The Dutch government is committed to continue its efforts in the coming years.

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

The evaluation report on the Netherlands in the fifth evaluation round by GRECO addressed the effectiveness of the framework in place in the Netherlands to prevent corruption in respect of persons entrusted with top executive functions (PETFs), which includes in the Netherlands the ministers, state secretaries and (for a part) political advisors.

In short, GRECO's analysis is that the Dutch system is largely based on trust and collegiality as well as personal accountability of the members of government. According to GRECO, explicit strategies and guidelines in an integrity system are of great importance in order to prevent and resolve conflicts of interest. This includes awareness, guidance, monitoring and enforcement.

In the evaluation report, GRECO points to a number of specific themes that require extra measures, such as transparency about potential conflicts of interest (ad hoc reporting and public declaration of financial interests) and dealing with third parties and lobbyists. The Netherlands received a total of eight recommendations concerning the integrity policy of PTEFs.

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The Dutch government largely agrees with GRECO's analysis. In the Netherlands, a strong integrity culture forms the basis of the integrity policy for central government. Prevention, trust, awareness and accountability are the main principles that apply to the integrity policy of ministers and state secretaries. This approach also fits in perfectly with the constitutional relation (whereby ministerial responsibility is the most important principle). However, in order to perpetuate (the further development of) an integer, transparent and resilient administration, the government is working on an approach with a broader basis and more balance between culture- and structure-oriented measures, such as a code of conduct, periodic integrity trainings and a clear support structure.

Below you will find the progress made on the individual recommendations for integrity policy for members of government.

GRECO addressed the following eight recommendations with regard to ministers and state secretaries:

i. developing a coordinated strategy for the integrity of persons entrusted with top executive functions, based on analysis of risks, aiming at preventing and managing various forms of conflicts of interest, including through responsive advisory, monitoring and compliance measures;

The Dutch government sees GRECO's evaluation of the integrity policy for members of government as a first step towards the analysis of the integrity risks for members of government. The evaluation by GRECO has extensively analyzed the integrity policy and, based on this analysis, identified gaps. The government believes that the overall implementation of the recommendations will lead to a strategy to strengthen the integrity policy for members of government. As indicated by the responsible Minister of the Interior and Kingdom Relations in the letter to Parliament in response to the compliance report², the government intends to implement different measures that will contribute to an approach with a better balance between prevention, awareness, monitoring and enforcement.

Since the adoption of the compliance report, the government introduced a self-assessment³ (April 2021). With the introduction of the self-assessment, prospective members of the government examine possible political and other vulnerabilities prior to their accession to the government. The government sees the self-assessment first and foremost as a basis for a more coordinated risk-oriented strategy, in accordance with the recommendation.

The risk analysis is in the interest of the candidate member of government and serves to promote awareness, to warn for risks and to recognize vulnerabilities. Certainly for people with a rich career, network and life experience, such as members of government, risks are almost inevitable. However, often these risks can be mitigated. The self-assessment facilitates the discussion about

² Parliamentary letter from the minister of the Interior and Kingdom Relations, sent to parliament on July 6, 2021. The parliamentary letter can be found on the website of the Central government:

<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/07/06/kamerbrief-bij-nalevingsverslag-greco-vijfde-evaluatieronde>

³ Please find the English version of the Self-assessment in the annex (1). The self-assessment is also available for the public, via:

<https://www.rijksoverheid.nl/documenten/formulieren/2021/04/30/self-assessment-risicoanalyse-integriteit-kandidaat-bewindspersonen>

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vulnerabilities and control measures and contributes to the cabinet's own resilience and stability. The self-assessment was applied at the start of the new cabinet in January 2022.

The Dutch government also held meetings with various experts. These experts include academics specialized in integrity and anti-corruption, experts such as former members of government, and integrity and anti-corruption experts from various layers of government. Discussions have also been held with experts from other countries. These expert sessions offered different perspectives on the integrity policy for members of government in the Netherlands and were taken into account for the further development of policy.

On the 28th of November 2022, the Council of State published its advice on the integrity policy for members of government (see recommendations ii for further information). In its advice, the Council of State argues for a broader approach that does justice to the moral dimension of integrity. In this respect, a clear and orderly normative framework is important. The Council of State underlines that the Council of Europe's recommendation to the Netherlands to draw up a consolidated integrity code has important added value. Furthermore, efforts should be made to develop a more comprehensive integrity system, focusing on training, risk analysis, trusted persons and ethical leadership. As political leaders, ministers have an exemplary role. Finally, for integrity in practice and to keep integrity rules 'alive', it is very important that ministers discuss integrity issues and dilemmas regularly, openly and in a safe setting.

The proposals and measures discussed under the recommendations ii until viii identify specific elements from recommendation i, such as how to deal with conflicts of interest and measures to strengthen compliance. The government is reviewing the elaboration of the various recommendations in relation to each other, which will ultimately contribute to the development of an overarching strategy. This is also in accordance with the advice by the Council of State.

Furthermore, the Minister of the Interior and Kingdom Relations informed the House of Representatives during a parliamentary debate⁴ and by means of a parliamentary letter of the intention to further develop the coherent policy on integrity. The parliamentary letter on the coherent policy will have a broader scope than the focus of the fifth evaluation round and will also include integrity on national and decentral level, as well as on the civil service. The intention is to share the parliamentary letter with the House of Representatives in 2023.

ii. (i) that a consolidated code of conduct for persons entrusted with top executive functions be developed, complemented with appropriate guidance regarding conflicts of interest and integrity related matters (e.g. gifts, outside activities, third party contacts, lobbying, etc.) and made easily accessible to the public; and (ii) that such a code be coupled with a mechanism of supervision and sanctions;

The Code of Conduct for Members of Government has been adopted during the meeting of the Council of Ministers of the 16th of December 2022. The Code is

⁴ Committee debate of March 10, 2020 on Integrity of the Public Sector. A report of the debate can be found on the website of the House of Representatives:
https://www.tweedekamer.nl/debat_en_vergadering/commissievergaderingen/details?id=2022A00240

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publicly available⁵. The Code of Conduct includes the elements mentioned in the recommendation. Various experts have been consulted prior to, and during the development of the code of conduct. The government considers the process of developing a code of conduct equally important as the end product and committed itself to a careful and supported process. This contributes to the sense of ownership for members of government and integrates the code in the integrity culture.

Since the adoption of the Code of Conduct took place in December, a translated version of the Code of Conduct is not available yet. A translated version of the Code of Conduct will be shared with GRECO as soon as possible.

The second part of the recommendation concerns a mechanism for supervision and sanctioning. Advice on the establishment of a supervision and sanction mechanism has been requested from the Advisory Division of the Council of State. One of the questions that the Council has been asked to answer is how a monitoring and sanction mechanism relates to the ministerial responsibility. Another question that arises is whether it is desirable to lay down the code of conduct in legislation. When the code of conduct will be laid down in legislation, it will be a lengthy and less flexible process to adapt the code, while the Dutch governments believes that the code of conduct should be a 'living' document that can be adapted when changing norms and values require so. However, it can be considered whether the requirement to *have* a code of conduct for members of governments should be laid down in legislation, leaving the further elaboration to the government.

The Council of State published its advice on its website on the 28th of November⁶. The Council of State stated that the questions from the government focused on monitoring, enforcement and sanctions. This may suggest that integrity is primarily a legal issue and can only be effectively addressed through sanctions. This approach risks 'over-juridising' the concept of integrity. Integrity is about the internally felt need to pursue certain moral values and stick to them. This also applies when these are under external pressure or when there is a temptation to deviate from them. Effective reinforcement of integrity as a moral value therefore requires a much broader set of instruments than enforcement and sanctioning. Above all, regular agenda setting, discussion of specific dilemmas, leadership and exemplary behavior should be central. The integrity of public administration and those who work for the government is of great importance for public trust in the government and needs permanent attention. This applies pre-eminently to members of government.

The Council of State assessed how the ministerial responsibility relates to monitoring and sanction mechanisms. In the Dutch parliamentary system, the relationship between parliament and government is based on ministerial responsibility and trust principle. A member of government must resign if the majority of parliament no longer has confidence in the member of government. This may include integrity issues. Parliament can pass judgment on this and, in view of the rule of trust, sanction as a last resort.

In its advice, the Council of State concluded that from a constitutional point of view, there is no objection to the establishment of a committee in charge of internal supervision and enforcement. The Council of States acknowledges that the internal

⁵ The Code of Conduct for members of government is made public and can be found here: <https://www.rijksoverheid.nl/actueel/nieuws/2022/12/23/gedragscode-integriteitsregels-voor-bewindspersonen>. See also annex 4.

⁶ <https://www.raadvanstate.nl/actueel/nieuws/november/samenvatting-voorlichting-gedragscode/>

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characteristic of the committee places limitations to the powers and positioning. However, the Council of State argues that if the committee were to handle complaints from third parties as well, it cannot be considered as internal supervision exclusively and should be seen as external supervision.

The Council of States argues that the establishment of a committee or an authority charged with external supervision and enforcement of integrity rules for ministers would be a profound change to the constitutional system. Such an authority could significantly affect the position of ministers, the prime minister and parliament and their mutual relations. In any case, a permanent authority would require an amendment to the Constitution. An authority that could impose sanctions (such as a fine) on ministers, would be according to the Council of State the most far-reaching variant and in conflict with the Constitution. It would interfere with parliament's autonomy to pass judgement on the functioning and responsibilities of ministers.

In its advice, the Council of State argues for a broader approach that does justice to the moral dimension of integrity. First and foremost, a clear and orderly normative framework is important here. The Council of State underlines that the Council of Europe's recommendation to the Netherlands to draw up an 'integral' integrity code has important added value. Furthermore, efforts should be made to develop a more comprehensive integrity system, focusing on training, risk analysis, trusted persons and ethical leadership. As political leaders, ministers have an exemplary role. Finally, for integrity in practice and to keep integrity rules 'alive', it is very important that ministers discuss integrity issues and dilemmas regularly, openly and in a safe setting.

The government of the Netherlands, in accordance with the advice by the Council, does not see any room to implement an external or internal monitoring and sanctioning mechanism. The government considers the implementation of an external or internal monitoring and sanctioning mechanism undesirable for the reasons mentioned by the Council of State. The independent confidential advisor (see recommendation iii) will contribute to a culture in which integrity issues can be discussed. The appointment of an independent confidential advisor will have a preventive nature.

iii. (i) establishing confidential counselling to persons entrusted with top executive functions on integrity related issues, conflicts of interest etc.; and (ii) raising the awareness of integrity matters among persons entrusted with top executive functions, including through training at regular intervals;

Awareness is an important pillar of the integrity system in the Netherlands. It is about awareness of possible risks and dilemmas that (may) occur and ethical conduct in practice. Awareness is created by openly discussing integrity issues, by observing the rules of conduct and - if desired - asking for advice.

In the current practice, integrity is a prominent subject in the discussion between the *formateur*⁷ and candidate member of government prior to appointment. Integrity may be discussed in the Council of Ministers during the term of office, but also at any other moment when a potential matter arises. A minister could already

⁷ A new government is formed after parliamentary elections following a coalition negotiation process through which an agreement is to be reached between the parties to join a government coalition. This process is led by a *formateur* (normally the political leader of the largest party). The *formateur* is likely to become Prime Minister.

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turn to the ministry's secretary-general, fellow ministers, especially the prime minister, and the secretary of the Council of Ministers for independent guidance and advice.

However, the Dutch government shares the view, as expressed by GRECO in the evaluation of the Netherlands in the fifth round and by experts during the discussions held, that confidential advice on integrity issues is desirable. In the Parliamentary Letter from the Minister of the Interior and Kingdom Relations of July 11, 2022⁸, the government announced that it would appoint a confidential advisor on integrity for members of the government. The confidential advisor will confidentially advise individual members of government on integrity matters. In the first half of 2023, the government will determine the exact tasks of the confidential advisor and appoint the advisor. The advice of the confidential advisor shall not affect the responsibility and accountability of the individual member of government.

The second part of the recommendation, increasing awareness of integrity, is implemented by the Code of Conduct for members of government. The Code of Conduct for members of government stipulates that the Council of Ministers will discuss the Code of Conduct yearly during the Council of Ministers (art. 5 of the Code of Conduct). Before the meeting of the Council of State, an integrity training will take place. This training may focus on a particular topic of the Code of Conduct. Organizing the integrity training prior to the meeting of the Council of Ministers allows for the government to potentially invite integrity experts to the training. During these yearly discussions and trainings, members of government will share dilemmas and learn from each other. This is necessary to maintain awareness and keep the code of conduct 'alive'. The discussion during the meeting of the Council of Ministers allows the government to update the code of conduct where necessary. The government is considering whether the confidential advisor may play a role in these periodic discussions and trainings.

With the introduction of the confidential advisor and the yearly integrity trainings for members of government, the Netherlands believes that this recommendation has been implemented satisfactorily.

iv. (i) introducing rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental processes and decisions, and (ii) increasing the transparency of contacts and subject matters concerning lobbying of persons who are entrusted with top executive functions;

The Dutch government recently amended the rules regarding the public agendas of members of the government. In early January 2022, a memorandum on the public agenda of members of government was discussed and approved. The memorandum includes seven recommendations designed to make the public agenda more user-friendly. For instance, the government now include contact information with the agenda items and provide a short description of the subject of the agenda item in question. The agenda items on Rijksoverheid.nl will also be categorised. This makes it possible to search by keyword, for example 'interview', 'reception', 'work visit' or

⁸ Parliamentary letter from the Minister of the Interior and Kingdom Relations, July 7, 2022. The parliamentary letter can be found on the website of the Central government of the Netherlands:
<https://www.rijksoverheid.nl/documenten/kamerstukken/2022/07/11/kamerbrief-met-reactie-op-initiatiefnota-over-integriteitsbeleid-bewindspersonen>

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'event'. It is also possible to search for a member of the government or the entire cabinet.

The memorandum contained the following seven recommendations:

1. Public, unless: Publish all appointments with external parties (physical, by telephone and online) on Rijksoverheid.nl, unless the grounds for exception in the Implementation guideline for public agendas of members of the government, including those in the Access to Information Law ('Wet open overheid' in Dutch), must be applied. Appointments made by telephone and online appointments are published if these appointments would have taken place physically under normal circumstances. Ad hoc telephone or online appointments do not have to be published.

2. More information about appointments: Include the subject/theme in every agenda item that is published, except if the exception grounds of the execution guideline, including those of the Access to Information Law (Woo), must be applied.

3. Contact details: Where possible, please include in each agenda item (general) contact details (telephone number and e-mail address) of the ministry concerned, where interested parties can report if they would like more information on the agenda item in question.

4. Publish with hindsight: Continue to update the public agenda on a weekly basis, but in any case, as soon as the new cabinet takes office, do so looking back at the past week. Retrospective publication of the agenda items of the past week has the following advantages:

- The information contained in the public agenda is always correct, because in any case all the appointments that actually took place are included.
- More information can be included on, for example, conversations, because afterwards it is clear on which subject(s) the minister and his or her discussion partner(s) have spoken.
- This increases transparency and gives interested parties, such as members of parliament, a better picture of the lobbying towards ministers.
- For the staff members at the ministries who are responsible for supplying the agenda items, this adjustment means that they can fit this task more easily into their work schedule. After all, the time of collection no longer has any effect on the topicality of the information that appears on the public agenda.

The government believes that the quality and completeness of the information on the public agenda would benefit if the emphasis in the process were to shift to looking back at appointments that have already taken place. In this way, the public agenda also meets Parliaments need for insight into the lobbying directed at ministers.

5. Access to agendas of ministers: Make sure that the person who has the task of supplying the agenda items has direct access to the agenda of his/her own minister(s). If this is not possible, make sure that there is an efficient internal process of collecting and coordinating the information for the public agenda.

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6. Clear information in agendas of ministers: In addition, make sure that the secretariats of the ministers ensure that the information they include in the agenda is as clear and informative as possible. The more a minister's agenda speaks for itself, the smoother and more useful the process of filling the public agenda will be.

7. Renewed focus on the public agenda: At the start of a new government, pay extra attention to the Implementation Guidelines for Public Agendas for Ministers, both for the new ministers (e.g. by the *formateur* in the constituent council) and for the staff members at the ministries who have been given the task of supplying information for the public agenda. This also applies in the event of a new minister taking office during the governments term.

The Code of Conduct for members of governments also includes rules on dealing with third parties, including lobbyists (see recommendation ii). Art. 3.6 of the Code of Conduct states:

1. A member of government shall pursue transparency in contact with third parties.
2. A member of government shall provide insight into his agenda arrangements by publishing the agenda on the website of the government (rijksoverheid.nl). The member of government shall weigh the interests in publishing the agenda against the public interest and, upon request, shall offer openness as to what contacts the member of government has had with third parties in relation to certain files.
3. A member of government shall be aware of his/her private contacts and where these contacts may pose an integrity risk.

Furthermore, the government has asked a professor with expertise in the field of integrity and lobbying to conduct a study on the introduction of a lobby register. Following this study, the government intends to implement a lobby register for members of government. The request includes the question of what exactly is meant by the term 'lobbyists', how the administrative burden can be kept to a minimum, and how experiences from other countries can be involved. It is also important that a lobby register does not unintentionally restrict citizens from getting in contact with a member of government. The study has been published in December 2022⁹. The government of the Netherlands will use the study as a basis for further decision-making and implementation. The government will report about the study and the further steps towards parliament in the beginning of 2023 and intends to implement a register in 2023 as well.

v. that a requirement of ad hoc disclosure be introduced in respect of persons entrusted with top executive functions in situations of conflicts between private interests and official functions, when they occur;

Candidate members of government must declare that they have resigned from all paid and unpaid positions, secondary positions and any secondary activities before the government is sworn in. With the introduction of the aforementioned self-assessment, extra awareness is created about conflict of interests for candidate members of government. However, the introduction of the self-assessment does

⁹ The study by prof. Braun is publicly accessible and can be found here: https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2022Z26378&did=2022D56968. See also annex 7.

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not rule out the possibility of a relevant change in private interests during the performance of one's duties that could give rise to a conflict of interest.

As indicated in the parliamentary letter from the Minister of the Interior and Kingdom Relations about the compliance report, if such a situation occurs while being in office, the member of government that it concerns must report to the House of Representatives about the situation and measures taken.

The requirement of ad hoc disclosure is included in the Code of Conduct for members of government (art. 3.6). In the Code of Conduct, it is stated that 'The introduction of self-assessment does not rule out the possibility that, during the performance of duties, a relevant change in private interests may nevertheless occur that could give rise to a conflict of interest, other than financial or business interests provided for in principle 3.6. A member of government is responsible for taking management measures, if necessary, and informing the House of Representatives accordingly'. The yearly integrity training and discussion on the Code of Conduct in the Council of Ministers will contribute to the awareness on the applicable rules, such as the requirement to ad hoc disclose any conflict of interest when this occurs.

vi. introducing general rules dealing with post-employment restrictions before persons entrusted with top executive functions seek new employment in the private sector and/or are about to enter into such employment after their termination of functions in the public sector;

In the evaluation report of the Netherlands in the 5th evaluation round, GRECO concluded that the measures in place in the Netherlands for the problem relating to 'revolving doors' appear insufficient.

Since the adoption of the compliance report of the Netherlands in March 2022, the Dutch government has introduced three post-employment measures for former members of government¹⁰:

- The existing ban on lobbying in respect of former members of the government is expanded to include adjacent policy areas in which the former member of government has been actively involved while in office. Previously, the ban on lobbying was limited to the policy area of the former ministry. Active involvement is deemed to have taken place if a member of government has had intensive and frequent official contacts outside his or her own ministry with regard to policy-making in a certain policy area. This may be the case in policy areas that lie at the intersection of several ministers, such as climate, migration, cybersecurity, youth care or the approach to the corona pandemic.

In concrete terms, the ban on lobbying means that civil servants may not, as part of their official duties, maintain commercial contacts of any kind with a former member of government for two years after the member of government's resignation. The term 'commercial contacts' must be interpreted broadly: not only face-to-face conversations, but also e-mails, telephone conversations, other forms of telecommunication or membership of a business delegation, for example. The Secretary-General can grant an exemption if necessary, and the independent

¹⁰ The parliamentary letter on post-employment measures for former members of government is publicly available:
<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/11/29/kamerbrief-over-integriteitsbeleid-voormalige-bewindspersonen>. A translated version of this letter can be found in the annex (2).

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committee can advise both the Secretary-General and the former minister on this. The extended ban on lobbying also applies for a period of two years. With the publication of the parliamentary letter, the expanded ban on lobbying is in effect.

- Introduction of the revolving door ban: The revolving door ban means that former members of government are not allowed to be employed by their former ministry for two years after the end of their term of office. They are also not allowed to accept paid commercial assignments from their former ministry. There are exceptions to this rule. Former members of government are often asked to chair or be a member of an advisory committee because of their expertise in a certain policy area. A revolving door ban does not exclude the specific commitment of former members of government. No employment contract is required for participation in an advisory board. This is a unilateral appointment. The appointment of a former member of government to an advisory board established on the basis of the Advisory Board Framework Act therefore does not fall under the envisaged revolving door ban. The Minister, or in Mandate of the Minister the Secretary-General, can if necessary grant exemption from the revolving door ban; the independent committee can advise both the Secretary-General and the former member of government on this.

- A cooling-off period of two years with compulsory advice: Former members of government must seek advice from an independent committee on the suitability of a new function in the private sector for a period of two years. In the case of a cooling-off period after the office of member of government, the government believes that in a specific case various considerations may be involved, such as the possibility of continuing a career after being in office. The advisory board on the Legal status of political office holders (in Dutch: Het Adviescollege rechtspositie politieke ambtsdragers) will carry out this new advice task. The Committee checks, on the basis of the information provided, whether the new position does not lead to (a risk of) a conflict of interests. There are three possible conclusions of the advice: no objection, permissible under further conditions or inadmissible. This method therefore offers room for a nuanced assessment of new positions and tailor-made advice, depending on the specific case. The committee will be equipped in such a way that it is able to advise on cases presented to it at very short notice.

The allocation of the new advisory task to the Advisory board on the Legal status of political office holders will be regulated by law, as well as the obligation for former members of government to ask for its advice and the scope of this obligation.

A bill concerning the post-employment measures for former members of government was submitted for public consultation in December 2022¹¹. The bill states that a former member of government is obliged to ask for advice on new employment if the new function is a management or lobby position in the private and semi-private sector, and the former member of government would be active in the field of the former ministry.

For the definition of the semi-public sector, article 1.4 of the Executives' Pay (Standards) Act applies.

The former member of government will submit a questionnaire about the new employment. This procedure corresponds with the Dutch integrity system based on

¹¹ The public consultation can be found here:

<https://www.internetconsultatie.nl/integriteitgewezenbewindspersonen/b1>. See also the bill and Explanatory memorandum in annex 5 and 6.

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the principle of responsibility. By answering the questionnaire, the former member of government reflects on itself and the new function.

The Advisory committee will use the questionnaire as guiding principle. The Advisory committee will assess whether the new function of the former member of government includes a possible conflict of interests, by including in its advice:

1. Whether the former member of government will perform activities for a legal entity, with which the former government has been in contact before its resignation intensively and more than occasional;
2. Whether the former member of government will perform activities for a legal entity that received individual or social benefit during the former member of government's time in office;
3. Whether the former member of government was in a position that allowed him access to business secrets of competitors, gain knowledge of unannounced government policy and other sensitive knowledge that may lead to an unfair or improper advantage for the new employer.

If the former member of government goes against the advice of the Advisory committee or does not ask for advice at all, the advice of the Advisory committee will be made public. Taking into account the severe impact that publication of the advice might have on a former member of government, publication of the advice of the Advisory committee is seen as a penalty by the Dutch government.

The bill also includes a legal basis for the lobby ban and revolving door regulations.

The input received on the public consultation will be used to revise the bill, after which the bill will be submitted to parliament. This should happen in the course of 2023.

Since the bill was submitted for public consultation in December, a translated version of the bill is not available yet. A translated version of the bill will be shared with GRECO as soon as possible.

Although the measures announced in the parliamentary letter are currently being laid down in legislation, the previous government expressed that they nevertheless consider themselves unconditionally bound by the principle that accepting a subsequent position does not create the appearance that he or she has acted improperly while in office. The same applies to the principle that during the performance of a new function, the appearance is not created that he or she handles the knowledge and information gained during the period in office as a member of the government in an improper way.

vii. (i) that persons entrusted with top executive functions be obliged to declare their financial interests publicly on a regular basis; ii) considering including financial information on spouses and dependent family members in such declarations (it being understood that the latter information would not necessarily need to be made public) and (iii) that the declarations be subject to an appropriate review mechanism;

During the evaluation of the Netherlands in the fifth evaluation round, GRECO was informed about the measures in place concerning the financial interests of members of government. With regard to financial and business interests of members of government, any semblance of non-objective decision-making must be avoided. This is why there are strict rules of conduct to which candidate members of

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government must commit themselves. It is the responsibility of the *formateur* to systematically discuss this subject with the candidate. It is the candidate's responsibility to truthfully and fully report all relevant facts. If during the interview possible incompatible financial and/or business interests are discovered, it is the responsibility of the candidate to make an adequate arrangement in time. The *formateur* takes note of this in outline and only indicates whether the chosen solution seems plausible to him in the given case. The relevant financial and business interests of the members of government and how to deal with them are mentioned in the letter that the Prime Minister sends to the House of Representatives shortly after the new government takes office.

The measure chosen for the financial and business interests should be sustainable for the entire period in office. During their term of office, members of the government are not permitted to create or accept a financial or business interest that is contrary to the aforementioned reasons.

However, the recommendation of GRECO rightly calls attention to the situation in which a member of government during the period of office accepts, for example, a general title, due to the acceptance of an inheritance or a gift, business and financial interests that could lead to an appearance of conflict of interest. The Dutch governments takes the view that an annual update is not sufficient for this purpose. Upon accepting such an interest, a member of government must make a provision to this effect instantly and notify the House of Representatives accordingly. Since the acquisition of such interests will, by its very nature, take place in the personal sphere of the member of government concerned and the Prime Minister cannot acquire knowledge of this independently, this obligation rests on the member of government himself.

The Prime Minister informed the House of Representative about the new requirement to report new financial interest during the time in office on December 15, 2021¹². At the start of the new government in January 2022, the members of government were informed about the new requirement.

The requirement to report financial interests during the time of office is included in the Code of Conduct for members of government (art. 3.5). The Code of Conduct will be discussed periodically in the Ministerial Council, which will contribute to the awareness about this requirement.

Part two of the recommendation concerns the financial information on partners and members of the family. During the evaluation of the Netherlands by GRECO, the GRECO Evaluation Team was informed about the rules concerning financial information on partners and members of the family. The starting point is that financial and business interests of a partner, adult children and other family members are generally not considered relevant. The reasoning behind this is that in today's society people are considered to be independent individuals who are expected to be economically independent. It is not appropriate to require the partner or relatives of a candidate to make far-reaching financial or business changes in their lives in order to make the candidate's candidacy possible. It is also undesirable that the office of member of the government would be unattainable for an important group of suitable candidates solely because of the social position of partner or relatives. The boundary of relevant financial and business interests that are at issue during the formation is therefore drawn at those interests over which

¹² Parliamentary letter from the Prime-Minister, sent to parliament on December 15, 2021. A translated version of this letter can be found in the annex (3). The letter can also be found on the website of the Central government: <https://open.overheid.nl/repository/rnl-f00d2b33-619c-4787-b7fb-2c7ff726b789/1/pdf/kamerbrief-uitvoering-motie-sneller.pdf>

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the candidate member of government personally has (joint) control. Hence the financial and business interests of minor children and the partner in case of a marriage in community of property are considered relevant. This demarcation does not alter the fact that during a term of office a member of the government himself bears the responsibility not to take part in the decision-making process on matters that his or her partner, children, other family members, business associates, (former) interests or former positions, insofar as participating could be in conflict with the proper performance of his or her duties.

viii. ensuring that the procedures allowing for investigation and prosecution of abuse of office (including passive bribery) do not hamper the criminal justice process in respect of ministers/state secretaries suspected of having committed corruption related offences.

In the evaluation report of the Netherlands of the 5th evaluation round by GRECO, GRECO stated that the current legal system may form a hindrance for the prosecution of (passive) bribery of ministers and state secretaries. GRECO recommended that measures should be taken to make sure that the procedures allowing for investigation and prosecution of abuse of office (including passive bribery) do not hamper the criminal justice process in respect of ministers/state secretaries suspected of having committed corruption relations offences. The Committee for the Revision of the legislation on offences committed while in office by members of parliament and members of government (in Dutch: 'de commissie herziening wetgeving ambtsdelicten Kamerleden en bewindspersonen'), which was established to advise on the fundamental revision of the legislation for the prosecution and trial of the members of the House of Parliament and ministers and state secretaries for offences committed while in office, included the recommendation by GRECO in its advice. The committee presented her report in July 2021 to the minister of Justice and Security and the minister of the Interior and Kingdom Relations¹³. An outline letter responding on the advice will shortly be discussed in the Council of Ministers.

Political Assistants.

In its evaluation report of the Netherlands in the fifth round, GRECO mentioned the special position of political assistants within the Dutch civil service. Political assistants are appointed by the minister they work for, in principle for the duration of the minister's term of office. In the exercise of their function, they consult on political matters with Members of Parliament and their assistants, and have a direct advisory role towards the ministers. Political assistants are subject to the same rules (i.e. the Central government Code of Conduct, GIR) as any other civil servant. The GIR includes rules about financial interests, secondary activities and dealing with third parties such as lobbyists.

To recall, the relevant rules in the Central Government Code of Conduct that also apply to political assistants:

- With regards to confidential advise, within every organisation, there are one or more designated confidential advisers for integrity issues and/or undesirable conduct. If civil servants have questions about integrity, are facing a dilemma,

¹³ The report of the committee is publicly available:

<https://www.rijksoverheid.nl/actueel/nieuws/2021/07/14/rapport-commissie-herziening-wetgeving-ambtsdelicten-kamerleden-en-bewindspersonen-naar-parlement>

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have identified a potential integrity risk or integrity violation, or have encountered undesirable conduct, the supervisor is the first point of contact. However, there is also the possibility to approach a confidential adviser. The confidential adviser is there to listen in confidence, provide information, issue advice and make a referral where necessary. The confidential adviser is independent and contact takes place in confidence.

- In contact with third parties, civil servants need to make sure that they remain transparent and independent. They need to be aware of the interests of lobbyists and of the different ways of exerting influence.
- Government organizations designate high-risks position within the organisation. If a civil servant holds one of these designated positions, the civil servant has a duty to report financial interests if there is a link to the role of the civil servant. Financial interests that adversely affect the service or the civil servants' proper performance are prohibited. Civil servants may consider reporting their partner's financial interests, as these may be deemed as indirect interests.
- In the case of new employment outside government, a cooling-off period may be agreed upon. The cooling-down period may involve taking a step back from the civil service duties before moving to a new job by reaching agreements about aspects such as access to certain information, or the tasks and responsibilities up to the time of the job move.

In addition, political assistants undergo a so-called A-screening by the General Intelligence and Security Service of the Netherlands since it is a position involving confidentiality.

GRECO stated in the fifth evaluation round of the Netherlands that the recommendations for members of government also apply to political assistants in situations where they can influence decision-making by members of government. The question is to what extent the integrity policy for civil servants is adequate for these situations. The government is seeking independent expert advice on this matter. The questions to be answered by the study are as follows:

- What is the constitutional position and function of the political assistants?
- Is the integrity of political assistants sufficiently safeguarded in terms of policy, by informing the Council of Ministers about the appointment of political assistants, the security screening A, the Central Government Code of Conduct and by taking the oath/affirmation?

The result of the study is expected before the summer of 2023.

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2. Preventing corruption and promoting integrity of law enforcement agencies

The eight recommendations regarding the NPN and the KMar and the steps taken to implement them to date, are the following:

ix. (i) that the Theme pages of the Professional Code of the NPN be further developed with guidance, examples and lessons learned, offering adequate guidance on conflicts of interest and other integrity related situations (e.g. gifts, third party contacts, accessory activities, handling of confidential information) and that a similar instrument be established for the KMar; and (ii) to ensure supervision and enforcement of these instruments;

NPN

As explained in the letter of 30 September 2020, the Theme pages were updated in 2020 and supplemented with case law examples and dilemmas. The Theme pages are updated annually and the most recent update stems from Q1 of 2022; a new update is expected in Q1 of 2023. An update of the Theme pages comprises a check of the relevance of the current information contained therein and the addition of new developments and insights. The current Integrity Theme pages deal with issues such as how to behave on social media, how to deal with gifts, how to use physical force and how to behave outside the workplace. Besides the periodic updates, the Theme pages are amended on an *ad hoc* basis, based on relevant new legislation or case law. The Theme pages are updated by advisors on Safety, Integrity and Complaints (*Veiligheid, Integriteit en Klachten*; VIK) of the Commissioner staff in collaboration with the prevention coordinators.

The Intranet page for Integrity of the NPN contains a link to the Theme pages (and also to other relevant documents/tools, such as: information on the theatre play RAW (*RAUW*; please see below), the toolkit Prevention, the campaign Always Alert (*Altijd Alert*) which provides guidance on the safe use of (external) applications (**Annex A** (Dutch)¹⁴) and the Code of Conduct on Lifestyle. Currently, the NPN is developing a new Intranet page in which the themes 'integrity' and 'VIK' are more easily accessed. This way, information is easy to find and always up-to-date. The contents of the amended Intranet page will consist of, for example: the Professional Code, the Theme pages, the Integrity policy, Integrity dilemmas, information about internal investigations, et cetera. It is yet unknown when this amended Intranet page will go live.

Supervisors continuously check whether actions by NPN-officers are in accordance with the Professional Code / the Theme pages and can discuss this with the officers. This is done in the course of the daily work and takes shape, for example, in the way the NPN works: every police team is coordinated by an operational coordinator, who supervises the work of the police officers. All teams are led by operational experts, who are trained in coordinating and evaluating the day-to-day operation. In this respect, operational coordinators and experts can use the Theme Pages /

¹⁴

We note that all Annexes are provided upon a confidential basis and may not be published or quoted in a public report without the prior approval of the NPN and KMar. Additionally, where an English version of a document was available this was provided. For other Annexes, the original document in Dutch was used. Please let us know if an English translation of certain documents is relevant and we will arrange for this.

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Professional Code, if deemed useful. Furthermore, the core values as outlined in the Professional Code are part of the "Result & Development" reviews that take place yearly between the team coordinators (i.e. the operational experts) and the individual team members. Please also see Part C ad 1 of this letter for further explanation of the 'enforcement' of the Professional Code, as supplemented by the Theme pages.

Additionally, the NPN has protocols in place and has departments that can be asked for help (like the professional 'confidant' and social workers), but also departments like VIK, where all employees can get advice or report integrity violations. Additionally, in June 2021 an expert on integrity has been appointed. The role of this expert (who is a member of team VIK) is to further develop the integrity policy and practice of the NPN, to translate scientific insights to practical measures and to contribute to the development of preventive actions to avoid integrity violations. For example, moral intervision/deliberation has been used as a tool to further investigate the underlying values and considerations in ethical dilemmas. Also, the expert integrity has been cooperating with relevant parties within the police on policy concerning drugs and alcohol abuse, racism & discrimination and the effects of anti-government sentiments. Furthermore, the expert on integrity participates in developing the academic research agenda of the Police Academy and is the point of contact for current research on integrity commissioned by the police.

Finally, an internal investigation can be commissioned by the appointed authority, usually the chief of police, when there is a suspicion that a rule or a core value has or had been violated. This suspicion can be raised by a report from any employee (e.g. to VIK) or can arise from other ongoing investigations.

KMar

In 2019, the Defence Rules of Conduct came into force. The Defence Rules of Conduct are evaluated on a regular basis and were last updated on 1 May 2020 (**Annex B** (Dutch)). As explained in the letter of 30 September 2020, the Defence Rules of Conduct are norm-based and describe the behaviour that KMar employees must show. The Defence Rules of Conduct are based upon the four core values of the Code of Conduct (i.e., Solidarity, Safety, Reliance and Responsibility; **Annex C** (English)). The Defence Rules of Conduct and the Code of Conduct are therefore inextricably linked with each other. The design and execution of the Defence Rules of Conduct are meant to be highly informative and illustrative. The various themes are accompanied by recognisable practical examples and encourage employees to discuss the rules with their supervisor/within their team when dilemmas arise or when the rules are still unclear to them. In the KMar Plan of Action on social safety, supervisors are asked to implement the Defence Rules of Conduct and the Code of Conduct and to discuss them on a regular basis such as in recurring meetings. To provide teams with tools to discuss the Code of Conduct, an online social safety toolbox was created at the time.

The Defence Rules of Conduct have become a fixed part of most (existing) presentations, training courses and workshops on integrity. For instance, these rules are discussed during the training courses given by the Internal Integrity Staff Unit of the KMar. These training courses are given throughout the year with an average of 60 presentations annually to groups averaging fifteen people. Confidential advisors discuss the rules during their training courses/presentations as well. Since the KMar has a large network of confidential advisors, no numbers

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are available on how often these training courses/presentations are given. The Defence Rules of Conduct are also part of the ethics lessons and lessons on moral professionalism given to all KMar security personnel, non-commissioned officers and officers in training at the Royal Netherlands Marechaussee National Centre for Training and Expertise. The Central Organisation for Ethics and Integrity (COID) is also invited to organise integrity training courses as part of various educational courses or programmes, during which the Defence Rules of Conduct are also discussed. As these educational courses or programmes are accessible to officers of all military branches, classes are attended by only a few KMar officers at a time. Relevant courses include the Intermediate Command and Staff Course, the Advanced Command and Staff Course, the Joint Commanders Course and the Military Attaché Course.

At the policy-making level, supervision and enforcement of compliance with the Code of Conduct and the Defence Rules of Conduct are primarily the responsibility of the Internal Integrity Staff Unit of the KMar. This staff unit constantly encourages commanders and team leaders to apply the Code of Conduct and the Defence Rules of Conduct during performance evaluations, briefings and/or team-building sessions. This is because, at the shop floor level, it is the responsibility of the commanders and the team leaders to supervise and enforce compliance with the Code of Conduct.

The Internal Integrity Staff Unit also gives presentations/training courses to encourage behaviour that is in line with the Defence Rules of Conduct and the Code of Conduct. The target audience for these presentations/training courses is quite diverse; the presentations/training courses target all levels of the organisation (from top management to the shop floor). Nevertheless, the majority of these presentations are given to management teams, managers/team leaders, teachers or employees who are tasked with a special assignment or who are working under special circumstances. An example of the latter category are observation or arrest teams or employees working abroad. As mentioned earlier, these presentations are given throughout the year with an average of 60 presentations annually to groups averaging fifteen people. The presentations are always tailored to the needs of the target audience. Mostly, they address how to improve the level of integrity within a team/department. Here, the focus lies on the responsibility of the manager/team leader, possible activities to prevent integrity breaches, and what to do when an integrity breach occurs. See **Annex D** (English integrity policy containing the KMar Integrity Management Model and Seven Steps Plan), **Annex E** (English dilemma cards) and **Annex F** (Dutch instruction sheet for one moral professionalism module within a course; we note that there are also moral professionalism modules in other courses) for non-exhaustive examples of materials used during the courses. Additionally, the Internal Integrity Staff Unit provides support to team leaders in complex cases. When a violation of the Code of Conduct and/or the Defence Rules of Conduct is suspected, the Internal Integrity Staff Unit investigates the matter.

x. that the in-service training on ethics and integrity for the NPN and the KMar staff, including managers, be enhanced by developing at national level further regular training programmes as a support and complement to the existing decentralised training in the units;

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NPN

Ethics and integrity are and will be part of several training programmes or awareness raising activities within the NPN:

- During the two-year police training programme (which is a national programme), the topic 'integrity' is dealt with at the following moments:
 - Students follow an e-learning course, which pays attention to the Code of Conduct and the Theme pages. Non-students that join the NPN also follow this e-learning course. The e-learning course is part of a broader introduction program for students. Non-students will likely also take part in an introductory day-program, for which a pilot is currently ongoing (due to the COVID-19 pandemic such a face-to-face introduction could not be organised in previous years).
 - Various assignments stimulate conversations between students under supervision of a supervisor about moral or integrity dilemma's. Students have to include such assignments in their personal portfolio. As an example, the first assignment of the training programme focuses on VIK.
 - In the fourth and fifth quarter of the training programme, students reflect on their working activities on a weekly basis. If moral dilemmas have arisen during the week, these will thus be discussed.
 - In the fifth quarter of the training programme, a film of the theatre play RAW is viewed by all students and subsequently discussed among them.
 - In a general sense, integrity and ethics are seen as required building blocks for the professional identity of employees of the NPN. The topics thus also receive attention in other ways, for example through study of the Code of Conduct by students or the VIK toolkit.
- It is currently reviewed whether integrity may also become a mandatory part of other educational programmes, such as the leadership programme, by examining the needs of employees and management in this respect. Based upon the then identified needs of employees and management, it will be examined if and how educational programmes can be further amended in 2023. There are two ways in which integrity can take shape in educational programmes. Firstly, police officers can be trained in the question of what 'integrity' means. This involves providing information on how to act in a right and trustworthy manner, where the term integrity is derived from, how the organisation is trying to organise integrity and what happens when you act in a way that violates the integrity of the police. Currently, this information is already provided in different awareness training sessions and campaigns (see next bullet) and in trainings that are given by VIK. The regional VIK units regularly give presentations within the organisation about integrity and discuss integrity dilemmas. The prevention coordinators also give lessons to the students. Secondly, integrity can be taught more implicitly. This involves learning how to act in specific situations. For example, police officers who are using police cars as priority vehicles to get to emergencies, need to follow a periodic training in which their driving abilities are tested and trained. In this training, lots of attention and time is spent on (i) how to drive safely, (ii) how to make decisions real-time

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while driving, (iii) what the consequences of not obeying the regulations could be, and (iv) how to take responsibility for your own decisions. Through this, the concept of integrity is applied to the real police work. Such education is also part of the periodic trainings on how to use force and violence, in which attention is paid to de-escalation, responding in a proportional way and matching the use of force to the goal they are trying to achieve. Integrity, in this second 'applied' way, is part of many other practical trainings and sessions. As mentioned, this is more implicit, because the word 'integrity' usually is not (often) used in those situations; the officers and trainers rather talk about proportionality, subsidiarity, being trustworthy and professional and how to be accountable for their choices on the street. Attention is also paid to the question of how to deal with confidential information. A manual for this is also available on the Intranet.

- There are currently several relevant awareness raising campaigns. For instance, the campaign 'Always Alert' informs police officers on how to treat (sensitive) information. This is a continuous programme, in which new activities are scheduled periodically. Another example is the campaign 'Personal Queries' (*Privébevragingen*). In this campaign, three employees of the NPN were given the floor to share the stories of the personal queries they made which subsequently affected their role/position. Such stories can raise awareness among other employees about integrity questions and the importance of asking questions / raising issues. Due to the privacy of the involved employees, it is not possible to provide more information regarding this campaign.
- A pilot has been rolled out within one police unit to examine how the police could identify improper use of information in certain systems. This pilot has led to the conclusion that there is a need for more prevention with regard to the improper use of information and for more information available to employees on how to deal with confidential information. These required actions, additional precautionary actions and the provision of information on how to handle confidential information are being executed in 2022. After this, the NPN will search for a way to identify improper use of information in certain systems. Notwithstanding this, we note that the NPN continuously reviews whether there is a need for certain campaigns; the two campaigns mentioned in this letter are merely current examples.
- At the end of 2017, the theatre play 'RAW' was developed to stimulate conversations about 'work and life at the NPN'. In other words, to stimulate conversations about the motivations of police officers and about issues they encounter during their day-to-day work, such as the impact of the work on their personal life. In four years, circa 24,000 employees have seen the play and the play is still being performed. Some performances allowed officers to bring a relative, in order for them to be able to discuss their work situation with them as well. In 2021, a performance of RAW was taped, in order for it to be seen by an even larger audience in the future.
- The NPN employees responsible for the Ethics & Privacy portfolio have been developing various tools on ethics. The aim of Ethics & Privacy is to strategically develop knowledge and attention for the role that ethics and privacy play in the police work. This is done by developing tools, by organising governance on the subjects and by advising on relevant issues,

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such as how to comply with privacy regulations and how to deal with algorithms and new technology. In December 2021, a 'value map' for good police work was created (**Annex G** (Dutch)). The Ethics & Privacy portfolio has also been given the instruction to train employees to apply "guiding ethics" (*begeleidingsethiek*) by organising so called 'ethics tables'. Guiding ethics is a method to approach ethical questions that are related to technological developments. A number of employees who are connected to the Ethics & Privacy portfolio are being trained or are scheduled to be trained to use this method. When an ethics table is organised, police employees from different departments and skills are invited to participate. A number of ethics tables has already been organised in 2021 and 2022.

KMar

The training programme of the KMar regularly pays attention to integrity and/or moral dilemmas. The KMar has created a continuous learning process concerning this subject. To this end, students first follow the moral professionalism course in their initial training programme. In short, in this course, students develop their moral competency, learn to deal with moral dilemmas and are taught about the Defence Rules of Conduct. In subsequent educational programmes, moral professionalism is again part of the curriculum. This includes the training for senior employees (sergeant majors), who receive twelve two-hour lessons, and the technical educational programmes for future team leaders/platoon commanders, who receive two four-hour lessons. The Royal Netherlands Marechaussee National Centre for Training and Expertise has six full-time employees who teach the relevant courses on professional integrity. While the KMar is pleased with the implementation of the continuous learning process, it sees room for improvement in other, related areas. At present, the KMar is therefore taking the necessary steps to ensure that enough attention is given to the Police Data Act and the General Data Protection Regulation in the current training programmes.

As already mentioned in recommendation ix, the Internal Integrity Staff Unit also gives a variety of presentations/training courses to a diverse target audience to encourage integrity (approximately 60 per year).

Besides the abovementioned internal training programmes, KMar employees can also follow external training courses at Schouten & Nelissen University of Applied Sciences. Groups/teams or individuals can also apply for these training courses to be given in-house. These seven training courses all focus on social safety. The titles/subjects of these training courses are:

1. Social Safety for You and Your Team (this training course can only be booked by teams)
2. Managing a Socially Safe Workplace
3. Hybrid Working and Social Safety
4. Social Safety, Diversity and Inclusivity
5. Express, Discuss, Address (*Uitspreken, Bespreken, Aanspreken*, UBA)
6. Social Safety and Mind Bugs
7. Social Safety and Camaraderie

In January – June 2022, these trainings were booked five times per request of different brigades (reference date August 2022).

The KMar has also developed an e-learning course about undermining. While this online course is available to all employees, it was specifically developed for

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employees who may experience undermining first hand due to their current positions. The module focuses on what undermining is, how one can recognise it and what to do when it is encountered. The Open Defence Academy also offers three online modules that focus on integrity and are accessible to all employees:

1. Integrity and vulnerability: this module teaches employees/supervisors how to recognise situations vulnerable to integrity breaches.
2. How to deal with an incident: the target audience for this module are supervisors and, as the title suggests, it teaches them how to deal with an integrity incident.
3. Business integrity: although this module is available to all employees, it is designed especially for reservists and teaches participants how to recognise conflicts of interest and which guidelines to follow.

KMar has also developed an application called 'My Defence'. With this application, information about social safety is easily accessible. Furthermore, it gives the user the option to immediately report an integrity violation.

Finally, approximately 150 KMar employees have attended the theatre play 'RAW' of the NPN. The play, which is currently no longer running, focused on dealing with integrity issues and moral dilemmas. The Royal Netherlands Army developed a similar play called 'Vuurdoop'. A number of KMar employees attended this play as well. This play ran until 2021.

There are, of course, also training courses in which integrity is taught implicitly through learning how to act in specific situations. For this, we refer to the training examples mentioned by the NPN.

xi. that adequate measures and appropriate resources be allocated in order to ensure that within the National Police (NPN) vetting and screening of staff takes place at regular intervals during their entire service;

As was reported earlier, the Dutch government has prepared a legislative proposal in which police officers and external officials, working for the NPN, are also screened during the execution of their work (and not only before commencing their work at the NPN). The Dutch Data Protection Authority published an advice on the proposals on 5 April 2022, which was published on its website.¹⁵ After reviewing and incorporating the results of the internet consultation and the advice of the Dutch Data Protection Authority (insofar as required and/or deemed desirable), the proposal was presented to Council of State for review. On 31 August 2022, the Council of State advised to implement proposal, without any further amendments.¹⁶ The current expectation is that the legislative proposal and further regulations will enter into force on 1 January 2023.

xii. that the procedures in situations where gifts and advantages of a certain level have been offered/accepted be reinforced, in particular by introducing a standard format for the reporting/declaration of gifts/advantages and such offers, that these be registered and subject to supervision;

¹⁵ [advies besluit screening ambtenaren van politie en politie-externen.pdf \(autoriteitpersoonsgegevens.nl\)](https://www.raadvanstate.nl/adviezen/@131985/w16-22-00080-ii/).

¹⁶ <https://www.raadvanstate.nl/adviezen/@131985/w16-22-00080-ii/>.

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NPN

Pursuant to the Police Act 2012¹⁷ (Article 47, paragraph 4), the Civil Servants Act 2017 (*Ambtenarenwet 2017*)¹⁸ applies with regard to the acceptance of gifts (Article 8, paragraph 1, sub e). The Act is further elaborated upon in the policy rule on handling gifts (**Annex H** (Dutch)). The policy rule stipulates that an NPN-officer is not permitted to accept or request gifts (i.e. products, services, reimbursements, rewards, gifts or promises in any form, including money and discounts) if:

- the gift represents a value of more than EUR 50. The estimated worth is determined by considering the amount that would have been paid for the gift in normal economic transactions.
- the gift consists of money or a discount, irrelevant of the value.
- the gift is requested by the NPN-officer. Irrelevant of the value.

A gift may only be accepted if the following conditions have been fulfilled (cumulative):

- The gift represents a value of less than EUR 50.
- The supervisor of the NPN-officer has approved acceptance of the gift.

The policy is published on the Intranet-page of the NPN and applies to all NPN-officers, including supervisors/management.

KMar

The Defence Rules of Conduct also contain rules on accepting gifts and advantages, which are illustrated by various practical examples. A gift/advantage needs to meet certain conditions before it can be accepted. To assess whether a gift/advantage can be accepted, employees must ask themselves the following questions:

1. Why is a gift being presented to me? If the purpose of the gift is to influence the employee, the gift cannot be accepted. The employee must then contact the integrity advisor.
2. Is it a reasonable gift, considering the situation? Employees must politely decline excessive gifts, unless this will cause serious offence to the gift giver. The supervisor will subsequently decide what to do with the gift, if accepted.
3. How often is a person/company offering gifts? Employees may not accept gifts from one person/company on a structural basis and must report such gifts to their supervisor.
4. Where are the gifts received? Gifts received at the home/private address may never be accepted. Employees must report such gifts to their supervisor and to the integrity advisor.
5. What is the value of a gift? Gifts with a value of more than EUR 50 may not be accepted.
6. What kind of gift is it? Gifts such as money, vouchers, services and trips may never be accepted.

Whenever a gift/advantage has been accepted, the employee's supervisor must be informed. The supervisor will then register the accepted gift/advantage. There are no guidelines in place for the content and duration of such a registration. The KMar is still of the opinion that an obligation to report and centrally register gifts received or offered is a time-consuming process that will not prevent integrity breaches concerning the wrongful acceptance of gifts. The KMar therefore focuses on

¹⁷ <https://wetten.overheid.nl/BWBR0031788/2022-07-08>.

¹⁸ <https://wetten.overheid.nl/BWBR0001947/2020-01-01>.

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encouraging ethically responsible behaviour instead. This view is in line with the integrity policy of the Ministry of Defence.

If a supervisor suspects that the accepted gift/advantage violates the Defence Rules of Conduct, the responsible commander must report the matter to the KMar's Department of Internal Investigations. There is no official format according to which the commander must report this possible violation. The KMar believes that the willingness to report a possible violation will be higher if the bureaucratic element associated with reporting a possible violation is kept to a minimum. The Department of Internal Investigations registers all such reports and can investigate such reports. When registering such a report, the following details are written down: name of reporter, date/time of report, name of the person who received the gift(s) and the gift(s) received. This information is saved for fifteen years in line with Dutch administrative law. On average, the Department of Internal Investigations receives approximately one report per year on this subject. In deciding whether to investigate a report, the department follows the Defence Code of Conduct, the Defence Rules of Conduct and general criminal law.

xiii. enhancing control measures in respect of access to and use of confidential information, in order to prevent unauthorised access to law enforcement registers and leaking of information;

NPN

The NPN endorses the importance of well-organized security of police data. Reliable and accessible information is essential for the NPN's performance. Unfortunately, police information is under threat from various actors. These threats are constantly changing, because developments in the cyber world are fast. Newly found vulnerabilities of applications and operating systems are the order of the day. Hackers, with or without ethical intentions, state actors and criminals try in all kinds of ways to compromise the integrity of police information.

The aim of information security at the NPN is therefore to guarantee the continuity of services to society as much as possible. Therefore, the NPN has put great effort in building an information security department with capabilities to identify risks, advise on preventive measures, and continuously monitor our threat landscape and our environment and the capability to respond in time to events.

To ensure that security and privacy are build-in from the start and are not seen as an add-on, the NPN is working with the principle 'privacy and security by design'. A project has started to implement this principle within the processes in the NPN.

The NPN has taken various measures to ensure proper security access for police systems. The current relevant measures are as follows:

- Identity Access Management (IAM): IAM automatically grants authorizations to access certain information, if the request for authorisation fulfils the requirements set by the National Function House National Police. If required, supervisors can grant additional authorisations for specific authorities. Such additional authorisations are not automatic, but can be administered through an interface on IAM (Authorization Tool for Supervisors; ATL). At the moment, IAM is

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undergoing various updates and enhancements. A project ensures the implementation of IAM for the complete environment.

- Security Operations Center (SOC): SOC logs most important systems and monitors for unusual behaviour.
- Pilot atypical signalling and Project pro-active monitoring. In our letter of 30 September 2020, we included information about the pilot (atypical signalling) in which NPN-staff and third parties under the responsibility of the NPN pro-actively monitored the use of NPN-systems. In this pilot the NPN developed a method to automatically search for signals of atypical use of IAM and/or ATL with the aim of detecting abuse of such systems early on. This pilot came to an end in Q2 2021. For now, it has been decided to not roll out this pilot nationally. Instead, awareness raising efforts to prevent data abuse will be needed before monitoring can be deployed nationally. This will be done in close cooperation with a new team that has been initiated specifically to focus on anti-corruption.

We note that there is also guidance available for NPN-employees when they are unsure whether they may access a certain system or certain information (*handreiking voor het raadplegen voor politiestructuren*; guidance for accessing police systems; **Annex I** (Dutch)). The guidance is meant to assist NPN-employees in determining whether access to certain information is legitimate and contains links to the Professional Code and relevant Theme pages. Furthermore, NPN-employees are urged to discuss dilemmas with their supervisor, VIK, confidential advisors et cetera. On a related nota, NPN-employees are provided with guidance on how to prudently handle information (both digital and physical information, specifically during transportation, storage and when destroying such information) (**Annex J** (Dutch)).

KMar

The KMar attaches great importance to the well-organized security of, among other things, its police data. The KMar recognises the possible risks to this security and thus acknowledges the importance of the GRECO recommendation. Preventing the improper use of information and the protection of personal data require constant attention. Keeping up with new developments in technology and external threats is also important in that respect.

The KMar has taken various measures to ensure proper security access to its systems. The current relevant measures are as follows:

- Data strategy: the KMar is an increasingly information-driven organisation in which data has a direct influence on how, where and when the KMar operates. It is the ambition of the KMar to increase the information-driven way of working. In redesigning our way of working, a data strategy was created. This strategy gives ample attention to data protection and data security. In short, data protection focuses on the protection of personal data (privacy) and data security focuses on the integral security and protection of information, including police information. One of the key items of the data strategy defines whose responsibility encompasses several aspects of operational data.
- HitNoHit application (HNN): HNN discloses KMar and NPN data within the HNN application on the employee's mobile device. HNN provides the KMar officer on duty with all necessary basic police information in relation to

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persons, vehicles and documents. The application can only be used with a Defence mobile device and authorisation takes place according to an authorisation matrix based on role (position and not name). HNH is connected to the basic roster program (OPRS). If a KMar officer conducts a survey outside working hours according to OPRS, HNH issues a default warning. Developments will be monitored in the near future to see what additional measures are deemed necessary. Whether algorithms can be used to identify atypical (i.e. not yet suspicious) use of the application is currently being examined. This examination is taking ethical questions concerning the protection of the KMar officer's privacy-related interests into account. In 2023, students will be able to practise with this HNH application, as a training application with fictitious data is being developed. Although there is no official launch date yet, developments are at an advanced stage. For now, the students are taught about the Police Data Act and do not have access to HNH while they are still in training.

- Logging as a Service (LaaS) environment: all KMar systems are connected to a LaaS environment in which access to systems is logged for a period. In the Defence Security Policy (DBB), logging and monitoring is prescribed for the various categories of interests to be protected (TBB). Depending on requirements, digital activity is logged and stored for operational and/or security reasons. It is thus possible to keep track of who has consulted what information and when. At present, employees responsible for data governance can check this manually.
- Business case: in our letter of 30 September 2020, we informed you about a business case for further follow-up and technical adjustments of the systems, which commenced at the beginning of 2020. This business case has led to the 'Monitoring for Logging' project. The main goal of the 'Monitoring for Logging' project is to develop functionality that will make it possible for the organisation to monitor and control the logging of digital activity in order to comply with legislation and regulations. Digital activity on information systems is currently being logged, but automated monitoring and control of the logging data is not yet in place. This project was initiated on the basis of a memorandum to the KMar Board of Directors. On 19 October 2022 the project proposal was approved. The Defence IT organization, the Joint Information Management Command, is in the process of making an impact analyses to access which adjustments to the current system needs to be implemented. Therefore, it is currently unclear what the exact deadline for completing this project will be.
- A working group for handling police data responsibly, lawfully and professionally: this working group was set up in the summer of 2020 to strengthen the quality and compliance awareness of KMar officers regarding data. The working group advises the strategic management of the KMar on appropriate measures regarding data protection and data security. The working group has issued advice on human (i.e. educational), technical (i.e. creation of non-operational digital environments) and process flows (i.e. integration of research on policing data vulnerabilities into general risk assessments). This advice was issued to the strategic command of the KMar in May 2022. Actions based on this advice are being considered.
- Internal investigations: whenever there is reason to believe that data is being used in a non-professional way, the Department of Internal

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Investigations can and will investigate the matter. The average annual number of such investigations ranges from five to fifteen. The use of algorithms to identify atypical use of data systems has not yet led to the initiation of any investigations, as this method is still being developed. Furthermore, this way of generating red flags to indicate atypical use of data, which may lead to investigations, will need to be approved by the employee representation body once it has been fully developed. At present, it is not possible to provide an estimated time frame for this process.

xiv. that a study be conducted concerning risks of conflicts of interest in relation to post-employment and other activities of police officers (including the top level), after they leave the police service, with a view to considering appropriate regulations in this area;

The Research and Documentation Centre (*Wetenschappelijk Onderzoek- en Documentatiecentrum*, WODC) is an independent division of the Ministry of Justice and Security that conducts scientific, policy-focused research. The Ministry of Justice and Security can ask the WODC to conduct (integrity-related) research. The Ministry of Justice and Security therefore asked the WODC to commission the research as stipulated in this recommendation. The WODC drew up a research proposal to this end in March 2020. The proposal contains the following questions: *What are possible conflicts of interest that can arise after the end of the employment of employees of the National Police and the Royal Netherlands Marechaussee and what are possible preventive measures, sanctions and experiences with conflicts of interest and measures in this context?*

As a result of this research proposal, the WODC received several quotes from parties to carry out the research. The research was ultimately awarded to Utrecht University. The study commenced in September 2020 and the report was published on the website of the WODC on 31 August 2021.¹⁹ The research states that no relevant documentation regarding conflicts of interest in relation to post-employment from the NPN and KMar was found and that little is therefore known about the meaning and nature of such conflicts. The researchers found that it was difficult to create a specific policy on this topic, as the possibilities for sanctions are limited and a conflict may arise due to circumstances that are unknown to the former employer. Finally, the research found that the NPN and KMar take many measures concerning possible conflicts of interest during employment. Such measures can also have an effect after employment, provided that sufficient attention is paid to the 'psychological contract'.

The report was also offered to the Dutch parliament together with the response thereto by the Minister of Justice and Security and the Minister of Defence.²⁰ In this response, the ministers indicated that the limited recommendations of the report would be used to further professionalise both the NPN and the KMar.

xv. (i) enhancing the current regime for declarations by introducing an obligation in respect of the top management of the NPN and the KMar to declare financial interests in accordance with a predefined format, when taking up their duties and

¹⁹ An English summary of the report is available on the website of the WODC. (<https://repository.wodc.nl/handle/20.500.12832/3089>).

²⁰ <https://zoek.officielebekendmakingen.nl/kst-29628-1034.html>.

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at regular interval thereafter, (ii) to designate posts which are vulnerable to conflicts of interest, and (iii) to provide for suitable oversight;

NPN

Article 8(1)(a) of the Civil Servants Act 2017 determines that NPN-officers are not allowed to engage in ancillary activities which would not reasonably ensure the proper performance of their job or the proper functioning of public service, insofar as this is related to their job performance. Article 8(1)(c) of the Civil Servants Act 2017 further stipulates that NPN-officers are not allowed to have financial interests (or securities / deal in security transactions) which would not reasonably ensure the proper performance of their job or the proper functioning of public service, insofar as this is related to their job performance. These provisions thus already significantly limit the chance of work-related conflicts of interest or inadmissible financial interests.

It follows from Article 8(2)(a) of the Civil Servants Act 2017 jo. Article 55a of the Decision on the general legal position of the police (*Besluit algemene rechtspositie politie*)²¹ that NPN-officers need to report their (prospective) ancillary activities if these activities can interfere with the interests of the NPN. Similarly, it follows from Article 8(2)(b) of the Civil Servants Act 2017 jo. Article 55b of the Decision on the general legal position of the police that NPN-officers need to report their financial interests if they can interfere with the interests of the NPN and to provide further information in this respect, if requested.

In the Financial Interests Policy Rule, the rules laid down in the abovementioned legislation and regulation are further elaborated upon.²² According to Article 1(g) of this Rule, financial interests constitute securities, rights of claim, real estate, building land, financial holdings in companies other than share ownership, as well as having negative financial interests such as debts from mortgage receivables. These may be relevant in connection with potential conflicts of interest or knowledge of price-sensitive information, depending on the nature of the position. In this policy rule, having financial interests is also understood to mean owning securities and having a third party hold and trade financial interests for their own account and risk, including effecting securities transactions, all as referred to in Section 8 of the Civil Servants Act 2017. The Rule also details for which officials there is a duty to report their financial interests and how such an interest must be reported. Article 6 stipulates that reports must be made in writing (in a form which is attached to the policy rule) to the compliance officer. For their own reports, the compliance officer must report to the chief of police. Similarly, the chief of police reports to the Minister of Justice and Security. Reports must be made immediately after the circumstance that has led to the report became known to the reporter / should reasonably have been known to them. Interim changes should also be reported through the form immediately. The Financial Compliance Officer of the NPN²³ supervises this reporting scheme.

The Financial Interests Policy Rule has entered into force on 29 June 2022. The NPN of course communicates and explains the new rules to relevant officers as per Q3-2022. This comprises the following: i) a general remark published on the Intranet that the amended Financial Interests Policy Rule has entered into force including stipulation of the key changes, where to find it and reference to an e-mail-address

²¹ <https://wetten.overheid.nl/BWBR0006516/2022-03-26>.

²² <https://zoek.officielebekendmakingen.nl/stcrt-2022-16941.html>.

²³ This function was created in December 2020.

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specifically created for queries that relate to the Financial Interests Policy Rule; ii) individual informing a specific targeted audience, including a personal e-mail about the actions required and reference to a contact for queries; and iii) an informative flyer is produced explaining the Financial Interests Policy Rule while using practical examples in accessible language. The aim is to focus on both financial interests as ancillary activities. Both topics are included as part of the annual "Result & Development" reviews.

In Q3-Q4 of 2022, top management is requested to provide all reports made according to a format that was approved by the NPN's external accountant.

KMar

Article 126c(4) of the General Military Personnel Regulations (*Algemeen militair ambtenarenreglement*)²⁴ and Article 70c(4) of the Ministry of Defence Civilian Employees Regulations (*Burgerlijk ambtenarenreglement defensie*) stipulate that it is forbidden for military personnel and civilian employees to have financial interests (or securities/deal in security transactions) such that the proper performance of their jobs or the proper functioning of the public service, insofar as this is related to their job performance, would not be reasonably ensured.

Article 126c(1) of the General Military Personnel Regulations and Article 70c(1) of the Ministry of Defence Civilian Employees Regulations state that the Minister of Defence designates the military personnel and civil servants who perform work that involves, in particular, the risk of a financial conflict of interest. This includes all positions for which a security screening (*VGB*) is part of the hiring procedure. It also follows from the aforementioned article that all designated military personnel shall report financial interests (and possession of/transactions in securities) that may affect the interests of the KMar, insofar as these interests are related to the performance of the duties of the military personnel. The report has to be made to a designated officer, this officer being the head of the unit in question (*hoofd van de diensteenheid*; Article 2(1) of the current Ministry of Defence Ancillary Activities Regulations; *Regeling nevenwerkzaamheden Defensie*).²⁵ Such reports are registered by the Minister of Defence (Article 126c(2) of the General Military Personnel Regulations and Article 70c(2) of the Ministry of Defence Civilian Employees Regulations).

xvi. (i) establishing a requirement for law enforcement officials to report corruption related misconduct within the service; and (ii) adapting the protection of whistleblowers in that respect.

NPN

Article 162(1) of the Dutch Code of Criminal Procedure²⁶ states that civil servants are obliged to report certain criminal acts – including corruption – if they learn of such acts while performing their work. In other words, if NPN-officers encounter corruption within the NPN they are obliged by law to report this.

Additionally, the Decision on the general legal position of the police also deals with reports of suspicions of suspected wrongdoings. According to Article 55dd(1) of the Decision on the general legal position of the police, NPN-officers can report suspected wrongdoings to their direct supervisor, a higher supervisor, a designated

²⁴ <https://wetten.overheid.nl/BWBR0003482/2021-02-12>.

²⁵ <https://wetten.overheid.nl/BWBR0011309/2000-06-01>.

²⁶ <https://wetten.overheid.nl/BWBR0001903/2022-07-01>.

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part of the organisation or a confidential advisor on integrity. Furthermore, if it cannot reasonably be required from the NPN-officer to internally report suspected wrongdoings, they can directly report to the Advisory Department of the Whistleblower Authority (*Huis voor Klokkeluiders*) or any other competent authority.

Reporting requirements are communicated within the NPN through several channels:

- The Code of Conduct stipulates – in accordance with the Decision on the general legal position of the police – that suspected wrongdoings can first be reported to the supervisor. However, the Code also refers to other available options, including: the confidential advisor on integrity, VIK, the social workers of the NPN (*bedrijfsmaatschappelijk werk*), the works council, the national reporting centre for wrongdoings (*Landelijk Meldpunt Misstanden*) or the Whistleblower Authority.
- A directory guide (*lokettenwijzer*) was created on 24 September 2021 and published on the Intranet-page of the NPN (**Annex K**). This directory guide provides a schematic overview of all different persons / (parts of) organisations where NPN-officers can report (suspected) wrongdoings or turn to for advice. The directory guide thus refers to all options also mentioned in the Code of Conduct. The directory guide provides direct links to the websites or website pages of the relevant persons / organisations, which sources also contain information on the protection of reporters. For example, the directory guide refers to the website of the Whistleblower Authority, which website again explains which protection is offered to whistleblowers. It is expected that supervisors will also refer NPN-officers to the directory guide, if required.
- The Intranet of the NPN also contains the different persons / (parts of) organisations where NPN-officers can report (suspected) wrongdoings or turn to for advice. The relevant Intranet-pages also discuss protection of reporters.

When a report has been made in good faith, no decision or action with negative consequences for the reporter will be made either during or after the procedure following the report.²⁷ In this respect, the protection offered by the Whistleblower Authority Act applies.²⁸ The Whistleblower Authority Act will be amended to implement Directive (EU) 2019/1937 of the European Parliament and the Council of 23 October 2019 on the protection of persons who report breaches of Union law. The legislative proposal to implement the EU Whistleblower Directive has been discussed in the Dutch House of Representatives since 1 June 2021. The House of Representatives has attached great importance to incorporate the evaluation of the current Act in the legislative proposal to implement the EU Whistleblower Directive. There were also wishes in the Dutch Parliament regarding optional provisions of the EU Whistleblower Directive. To achieve this, the Dutch Parliament issued a memorandum with various proposals in April 2022. In response to these proposals, the Minister of Interior and Kingdom Relations has sent a second letter of amendment on 29 June 2022 and a and a third letter of amendment on 1 November 2022 to the House of Representatives with the aim to implement the Directive as soon as possible.²⁹ The Netherlands has not met the implementation deadline of

²⁷ Article 55db(2) of the Decision on the general legal position of the police.

²⁸ <https://wetten.overheid.nl/BWBR0037852/2022-05-01>.

²⁹ *Kamerstukken II*, 2022/23, 35 851, no. 18.

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the Directive (17 December 2021). The Minister of the Interior and Kingdom Relations considers it of great importance to avoid an appeal procedure at the European Court of Justice with potentially high financial consequences. The House of Representatives passed the legislative proposal unanimously on 20 December 2022, after accepting some amendments. Now only the Senate has to pass the proposal (the Dutch Senate has no competence for amending the legislative proposal).

KMar

Article 162(1) of the Dutch Code of Criminal Procedure states that civil servants are obliged to report certain criminal acts – including corruption – if they learn of such acts while performing their work. In other words, if KMar officers encounter corruption within the KMar, they are obliged by law to report this.

Notably, the Ministry of Defence strives for clarity and simplicity in reporting and recognisability of the reporting procedures. Therefore, an important stipulation in the revised Defence Integrity Policy of 7 July 2022 was the simplification and clarification of the process of reporting (possible) integrity breaches. This resulted in a central system that unified several different existing reporting procedures.

All Defence personnel must feel safe to report suspected abuse and integrity violations, including inappropriate behaviour. This mainly requires a low-threshold system that starts with reporting in the chain of command, precisely because the commander is responsible for integrity within the commanders unit. Accessible commanders and well-trained counsellors play an important role in this phase of the process.

In principle, reporting is done to the manager, to the integrity advisor or directly to the Defence Integrity Reporting Centre (MID), which is staffed by external personnel from the Centre for Public Sector Labour Relations (*Centrum voor Arbeidsverhoudingen Overheidspersoneel*, CAOP). If a report reaches the MID (through telephone or e-mail), this organisation is responsible for follow-up actions and careful handling, whether or not advised by the manager/integrity advisors. The aim is for the reporter to be informed in all cases of actions taken as a result of the report. If a reporter is dissatisfied with the handling of their report, the reporter can contact the National Ombudsman or the Whistleblowers Authority. In addition, it is possible to make an anonymous report via a foundation, which ensures confidentiality in reporting criminal offences (NL Confidential). In some cases, however, anonymous reporting might reduce possible interventions, i.e. the possibility of directly initiating criminal investigations, as the report might not contain the information needed to investigate and additional requests for information cannot be made to the person reporting the case.

All reports of suspected integrity violations, including complaints, are registered in the central system. Additionally, for police processes there is a secure database in the police register system where (suspected) integrity violations are registered. The central registration system ensures that confidentiality is guaranteed, that follow-up action and feedback are monitored and that progress is, whenever possible, obligatory and/or desirable, reported to the reporter. All this contributes to a structure that should increase the willingness to report and offers the possibility to learn from situations. Simplifying the reporting and registration system, as well as increasing the willingness to report and improving aftercare, are important themes within Defence that are constantly evolving. When a report has been made in good faith, no decision or action with negative consequences for the reporter will be made

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or taken, either during or after the procedure following the report. In this respect, the protection offered by the Whistleblowers Authority Act applies. The protection of whistleblowers is also specified in the guidelines of the secretary general of the Ministry of Defence (SG-A989).

There are several ways in which employees are informed about the procedure of reporting a possible integrity violation. This information is mentioned prominently on all the main intranet pages of all branches of the armed forces. It is also mentioned on the public internet page of the Ministry of Defence.³⁰ The 'My Defence' application provides the user with the same information. Confidential advisors and integrity advisors include this information during training courses or upon request as well.

C. Comments to the Fifth Round Compliance Report on the Netherlands of 25 March 2021

Upon further review of the Fifth Round Compliance Report on the Netherlands of 25 March 2021, the Netherlands finds that certain statements or findings therein require further context, nuance or are incomplete and/or incorrect. While this report has of course already been established, the Netherlands nevertheless wants to use this opportunity to remark upon these points. Please find the relevant remarks below.

NPN

1. In respect of part (ii) of recommendation ix, the NPN wishes to clarify the 'enforcement' of the Professional Code, as supplemented by the Theme pages. The Professional Code guides the NPN-officers' actions, during their work and while they are off-duty. The Professional Code states what is expected of NPN-officers, which values the NPN adheres to and where NPN-officers can turn to if they have any questions. The Professional Code starts with the oath / promise that every police officer pledges at the start of their career. The oath is also laid down in a regulation (*Besluit algemene rechtspositie politie*).³¹ Violation of the Professional Code can thus have legal consequences. The relevant regulation is enforced. After taking the oath, each NPN-officer receives a copy of the Professional Code accompanied with explanatory information.

While the Professional Code as such is not enforced, it is used as an underlying document to indicate which actions of NPN-officers constitute a breach of their professional duties (i.e., which value – as incorporated into the Professional Code – has not been upheld, if such a breach has been identified in the course of an internal investigation). On a related note, the Theme pages indicate how the values can play a role in concrete situations. The Theme pages also provide explanations of relevant case law and legislation. The Theme pages are used in information and prevention-sessions to ensure that their contents are widely known within the NPN. Additionally, all this information is available on the Intranet of the NPN and is periodically reviewed and, if required, updated to reflect the latest case law or new insights.

³⁰ <https://www.defensie.nl/onderwerpen/klachten-en-schadeclaims/meldpunt-integriteit-defensie>.

³¹ <https://wetten.overheid.nl/BWBR0006516/2022-03-26>.

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2. Although the compliance report for the Netherlands in the fifth evaluation round, has been adopted on 25 March 2021, the NPN still wishes to nuance statements made regarding *“serious allegations of corruption in the police linked to the EncroChat encrypted communication system”* in paragraphs 31 and 46 of this report. These statements may give the impression that corruption was found to be widespread within the NPN and that the EncroChat-matter led to many convictions for corruption-related offences. This is not the case: the EncroChat-matter did not concern only police officers, but also other officials and has in its totality led to a few convictions (so far).

3. Finally, we wish to clarify the following statement made in paragraph 12 of the compliance report: *“Moreover, the Tackle Corruption Team (Team Aanpak Corruptie) has already been set up to investigate police corruption in connection with EncroChat messages, under the leadership of the National Police Internal Investigations Department and with the support of detectives from the National Police.”* Where the compliance report refers to the National Police Investigations Department, this should read the National Internal Investigations Department (*Rijksrecherche*), which is an institution separate from the NPN.

KMar

The KMar has no comments on the report.

Concluding remarks

With this letter, the Dutch government informs GRECO about the developments with regards to the recommendations for the prevention of corruption and promotion of integrity for members of government and law enforcement agencies. The Dutch government is committed to implement the recommendations by GRECO in a way that fits within the national context and the legal principles. The implementation of the recommendations requires an extensive and careful process, which is currently taking place. The Dutch government will actively inform GRECO about new developments in that regard.

Yours sincerely,

Head of Delegation of the Netherlands at GRECO
[weggelaten i.v.m. persoonsgegevens]

Annex:

Annex for 1. Preventing corruption and promoting integrity in central governments (top executive functions):

- Annex 1 - Self-assessment for candidate members of government (English)
- Annex 2 - Parliamentary letter on the post-employment measures for former members of government (English)
- Annex 3 - Parliamentary letter on the financial interests of members of government (English)
- Annex 4 - Code of Conduct for members of government (Dutch)
- Annex 5 - Public consultation bill on post-employment measures for former members of government (Dutch)
- Annex 6 - Explanatory memorandum to the bill on post-employment measures for former members of government (Dutch)
- Annex 7 - Study on the implementation of a lobby register (Dutch)

Annex for 2. Preventing corruption and promoting integrity of law enforcement agencies:

- Annex A. Always Alert (Dutch)
- Annex B. Defence Rules of Conduct (Dutch)
- Annex C. Defence Code of Conduct (English)
- Annex D. Integrity Policy including IMM and SSP (English)
- Annex E. Dilemma cards (English)
- Annex F. Module Moral Professionalism (Dutch)
- Annex G. Value Map (Dutch)
- Annex H - Policy Rule on Handling Gifts (Dutch)
- Annex I - Guidance for accessing police systems (Dutch)
- Annex J - Prudently Dealing With Information (Dutch)
- Annex K - Lokettenwijzer (Dutch)