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



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FOURTH EVALUATION ROUND

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

ADDENDUM TO THE SECOND COMPLIANCE REPORT SLOVAK REPUBLIC

Adopted by GRECO at its 82nd Plenary Meeting
(Strasbourg, 18-22 March 2019)

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I. INTRODUCTION

1. The Addendum to the Second Compliance Report assesses the measures taken by the authorities of the Slovak Republic to implement the pending recommendations issued in the Fourth Round Evaluation Report on the Slovak Republic (cf. paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on the Slovak Republic was adopted at GRECO's 61st Plenary Meeting (18 October 2013) and made public on 6 November 2014, following authorisation by the Slovak Republic ([Greco Eval IV Rep \(2013\) 2E](#)). The Fourth Round Compliance Report was adopted at the 69th Plenary Meeting (16 October 2015) and made public on 12 November 2015, following authorisation by the Slovak Republic ([Greco RC-IV \(2015\) 7E](#)). The Second Compliance Report ([GrecoRC4\(2017\)19](#)) was adopted at the 77th Plenary (16-18 October 2017) and made public on 18 October 2017, following authorisation by the Slovak Republic.
3. As required by GRECO's Rules of Procedure, the authorities of the Slovak Republic submitted a Situation Report with additional information regarding actions taken to implement the 10 pending recommendations that, at the stage of the Second Compliance Report, had been partly or not implemented. The Situation report was received on 2 October 2018 and served, together with the information submitted subsequently, as a basis for this Addendum to the Second Compliance Report.
4. GRECO selected Romania and Germany to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Sorin TANASE on behalf of Romania and Mr Markus BUSCH on behalf of Germany. They were assisted by GRECO's Secretariat in drawing up this Addendum to the Second Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO, in its Evaluation Report, had addressed 16 recommendations to the Slovak Republic. In the subsequent Compliance Reports, GRECO concluded that recommendations vi, vii, ix, xii, xiii and xv had been implemented satisfactorily, recommendations ii, iii, iv, viii, x, xi, xiv and xvi had been partly implemented and recommendations i and v had not been implemented. Compliance with the 10 pending recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. By way of an introduction, the authorities of the Slovak Republic inform that a draft legislative proposal on measures to implement the pending GRECO recommendations, prepared by the Ministry of Justice was submitted in August 2018 for consideration and for public discussion. The procedure lasted until 12 September 2018 and substantial objections were raised by the Ministry of Finance. Following an assessment of comments, the Government adopted a modified "Proposal of measures to implement GRECO recommendations addressed to Slovakia in Fourth Evaluation Round" on 23 January 2019 (Resolution of the Government of the Slovak Republic no. 31). The resolution takes into account the Second Compliance Report of the Fourth Evaluation Round on Slovakia, assigns tasks to the Minister of Justice and recommends different actions to the Speaker of the National Council, the President of the Judicial Council and the Prosecutor General that would respond to GRECO recommendations. All tasks and actions are completed with deadlines in which they should be accomplished.

Recommendation i.

7. *GRECO recommended that the transparency of the legislative process be further improved by introducing appropriate standards and providing guidance to members of Parliament on dealing with lobbyists and those third parties whose intent is to sway public policy on behalf of partial interests.*
8. Recommendation i was considered not implemented in the Second Compliance Report. GRECO had taken note of attempts made between 2012 and 2015 to introduce a law on lobbying, which had not been supported in the National Council. It had welcomed the preparation of a draft Code of Ethics for MPs incorporated into a bill amending the Council's Rules of Procedure, which contained an article on transparency in office, however the draft Code of Ethics did not deal with most requested issues, but rather with the transparent use of procedures and funds.
9. The authorities now report on the work of a parliamentary working group composed of experts from different units of the chancellery of the National Council which was established following the 2016 Parliamentary elections to prepare a draft Code of Ethics for Members of Parliament, which should also cover rules on lobbying (cf. par. 14).
10. GRECO notes the information on the draft Code of Ethics, which has not been sent to GRECO for assessment. No additional information on possible new legislation on the transparency of the legislative process and on guidance to MPs on dealing with lobbyists and third parties has been provided.
11. GRECO concludes that recommendation i remains not implemented.

Recommendation ii.

12. *GRECO recommended that (i) a Code of Conduct for members of the National Council be adopted (including guidance on the prevention of conflicts of interest, acceptance of gifts and other advantages, misuse of official position and asset declarations) and be made publicly available; and (ii) the Code be properly enforced (via a supervisory mechanism and sanctions) and accompanied by dedicated training, advice and counselling.*
13. Recommendation ii was considered partly implemented in the Second Compliance Report based on information on on-going revision of the Rules of Procedure of the National Council that form a proper legal basis for adopting a Code of Ethics for MPs and for holding MPs liable for breaches.
14. The authorities now report that a parliamentary working group composed of MPs from different political parties elected to the National Council was established following the 2016 elections, to prepare a draft Code of Ethics for Members of Parliament. The Code should cover different elements, such as prevention of conflicts of interest, misuse of official position, acceptance of gifts and its administration, lobbying rules and supervisory mechanisms and sanctions. In June 2018, a preliminary draft of the Code of Ethics was submitted to MPs for comments. However, the draft is not yet ready to be submitted as a legislative proposal.
15. GRECO takes note of the information on the work still in progress on a new Code of Ethics for MPs. As this is a new draft, different to the one presented in the first Compliance Report and it has not been presented to GRECO, it is not in a position to assess the draft. Therefore, the current recommendation is no longer partly complied with.

16. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

17. *GRECO recommended that rules specific to the National Council be elaborated on the acceptance of gifts, hospitality and other benefits by parliamentarians and that internal procedures for valuation, reporting and return of unacceptable gifts be set out.*
18. GRECO recalls that recommendation iii was partly implemented. The Second Compliance Report provided information on the revision of the Rules of Procedure of the National Council that formed a proper legal basis for adopting a Code of Ethics for MPs and for holding MPs liable for breaches.
19. The authorities again refer to the work of the parliamentary working group on draft Code of Ethics for MPs and its proposed provisions on acceptance of gifts and its administration. However, no draft has been submitted to GRECO.
20. The authorities further report that in October 2017 the Speaker of the National Council established a working group to prepare an amendment to constitutional Act no. 357/2004 Coll., on the Protection of Public Interest in the Performance of Functions of Public Officials. Based on its proposal an amendment to Act. No 357/2004 Coll. was adopted on 31 January 2019 (resolution no. 1601/2019). The President signed the law on 14 February 2019 and it will enter into force on 1 January 2020. The law introduces new obligation to report in annual declarations the date, type and description of gift or other benefit accepted by the official, if the value of one gift/benefit or gifts/benefits from one donor exceed 10 times the minimum wage (i.e. exceeding 5 200€).
21. GRECO welcomes the introduction of a duty to report gifts/benefits in annual declarations of MPs, however no definition of gift, nor rules on their valuation and return of unacceptable gifts have been adopted as yet. The threshold set for acceptance of gifts is still a subject of concern considering the minimum wage in Slovakia (520€) and average salary of an MP (3 500€). These elements should be elaborated in the Code of Ethics which is still in the stage of preparation.
22. GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv.

23. *GRECO recommended to further develop and refine the financial disclosure regulations applicable to members of Parliament in order to include the regular notification of financial interests, partnerships, other business arrangements, domestic and foreign travel paid by third persons as well as benefits, hospitality and sponsorship obtained from domestic and foreign entities above a certain threshold.*
24. Recommendation iv was qualified as partly implemented in the Second Compliance Report. Reference had been made to article 5 of the draft Code of Ethics which dealt with declarations of assets, functions, employment and activities as foreseen in the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials. The feasibility of revising the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials that would deal with recommendations iv and v still needed to be assessed by the inter-parliamentary Working Group once it had been formed.

25. The authorities now report that the adopted amendment of constitutional law on the Protection of Public Interest, referred to above, not only introduces obligations to declare gifts or other benefits but use of immovable or movable assets of value exceeding 35 times the minimum wage and last longer than a month as well. Another change is the prolongation of the deadline for decisions by the control body from 60 to 180 days.
26. GRECO takes note of the information. It welcomes some positive amendments to the constitutional law on Protection of Public Interest in the Performance of Functions of Public Officials with regard to the obligation to declare gifts or other benefits and the use of immovable or movable assets. However the thresholds set at the moment are still a subject of concern (10 times the minimum wage to declare gifts/benefits and 35 times the minimum wage to declare use of im/movable assets).
27. GRECO concludes that recommendations iv remains partly implemented.

Recommendation v.

28. *GRECO recommended that the supervision and enforcement of rules on conflicts of interest, asset declarations and other duties and restrictions applicable to members of Parliament under the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials be strengthened, notably, by revising the mandate and attributing supplementary human and material resources to the Committee on the Incompatibility of Functions of the National Council.*
29. Recommendation v was assessed as not implemented in the Second Compliance Report. The feasibility of revising the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials that would deal with both recommendations iv and v still needed to be assessed by the inter-parliamentary Working Group once it had been formed.
30. The authorities refer to the changes of the constitutional law on Protection of Public Interest in the Performance of Offices by Public Officials, but no information is provided on revising the supervisory role of the Committee on the Incompatibility of Functions of the National Council or on an increase in human and material resources.
31. GRECO welcomes changes to the constitutional law on Protection of Public Interest as described above. However, recommendation v mainly aims at strengthening the supervisory role of the Committee on the Incompatibility of Functions of the National Council, the necessity to revise its mandate to allow for more proactivity in the supervision and enforcement of rules on conflicts of interest, asset declaration and other duties and restrictions applicable under the PPI law on MPs (cf. par. 52 of the Evaluation Report), and the need for additional resources. This situation has not evolved.
32. GRECO concludes that recommendation v remains not implemented.

Corruption prevention in respect of judges

Recommendation viii.

33. *GRECO recommended that (i) the "Principles of Judicial Ethics" be revised and further developed so as to provide more precise guidance to all judges on the expected conduct, judicial integrity and corruption prevention, and (ii) the proper*

application of the "Principles" be ensured (via a supervisory mechanism and sanctions) and accompanied by dedicated training, advice and counselling.

34. Recommendation viii was considered partly implemented in the Second Compliance Report. The Judicial Code of Conduct (Principles of Judicial Ethics) had been adopted by the Judicial Council on 17 December 2015 and the oath of office taken by judges included *inter alia* a pledge to abide by the Code when exercising judicial function. Although GRECO considered that the Code represented a sound framework, it was worded in too general terms and needed to be complemented by detailed "interpretation rules".
35. The authorities now report that on 26 February 2018 the Judicial Council established a commission to prepare summarised interpretative rules on the Principles of Judicial Ethics. Moreover, the Judicial Council has adopted two opinions which provide an interpretation of certain elements of the principles of Judicial Ethics, one in April 2018 on what constitutes improper behaviour or might be perceived as unsuitable or inappropriate behaviour, and a second opinion, adopted in September 2018, which deals with relations between a judge and an advocate.
36. GRECO welcomes the establishment of a Commission to prepare summarised interpretative rules on the Principles of Judicial Ethics. The two opinions of the Judicial Council seem to be sufficiently detailed and go in the desired direction, by interpreting certain aspects of the Principles with regard to the behaviour expected, and providing explanations and concrete examples to judges. However, these two separate opinions which only deal with certain elements of the Principles of Judicial Ethics are not enough to comply with GRECO's recommendation.
37. Until a set of a more global interpretative rules is adopted and GRECO has a chance to assess it in its entirety, GRECO can only conclude that recommendation viii remains partly implemented.

Recommendation x.

38. *GRECO recommended establishing an obligation to declare liabilities (e.g. debts and loans) and gifts above a certain value on those judges who are not covered by the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials.*
39. This recommendation was assessed partly implemented in the Second Compliance Report. GRECO had welcomed that amendments to the Act on Judges and Lay Judges had been adopted by the National Council and entered into force on 1 July 2017. They introduced a requirement for judges to report liabilities in amounts exceeding 6 600€. According to the explanatory report, "liabilities" are understood to comprise not only debts and loans but also gifts, particularly those given through a deed of gift.¹ The authorities stated that the amount of 6 600€ represented approximately twice the average monthly income of a judge. The same threshold was also established in respect of prosecutors (cf. recommendation xvi). However, while accepting that the aforementioned threshold may be suitable for reporting liabilities in the form of debts and loans, GRECO, in its Second Compliance Report, was of the opinion that this threshold was too high for gifts, bearing in mind both the salary scale for judges and national economy.

¹ Pursuant to Section 628 of the Civil Code, the deed of gift must be concluded in writing if the subject of the gift is real estate. If the subject of the deed of gift is a movable thing, the deed of gift is to be concluded in writing only if the movable gift is not transferred at the time of the conclusion of the deed of gift.

40. The authorities reiterate that judges are forbidden from accepting any gifts both under the Code of Judicial Conduct and the Act on Judges and Lay Judges. Gifts accepted in a private capacity are to be reported in a specific part of the asset declaration and the threshold of 6 600€ applies. In January 2019, the Minister of Justice was tasked by the Government to prepare an analysis of the threshold for declaring gifts accepted in a private capacity by judges and prosecutors which GRECO had considered inadequate. The analysis is to be done by the end of March 2019.
41. GRECO notes the assurances given that judges are forbidden from accepting any gifts in their professional capacity. As for the threshold set for declaring “liabilities” (including gifts) over the amount of 6 600€, GRECO welcomes the information on an analysis to be prepared by the Minister of Justice and trusts that further changes will be made to take GRECO’s recommendation fully on board.
42. GRECO concludes that recommendation x remains partly implemented.

Recommendation xi.

43. *GRECO recommended that the enforcement of rules on asset declarations under the Act on Judges and Lay Judges be strengthened, notably, by ensuring a more in-depth scrutiny of the declarations, providing commensurate human and material resources to the relevant oversight body and consistently sanctioning the identified violations.*
44. This recommendation was considered partly implemented in the Second Compliance Report. At that stage, it was established that the asset declarations of more than 1 300 active judges are examined by the Legislative Department of the Office of the Judicial Council. Irregularities are detected by comparing current electronic declarations with those submitted in the previous year, including by using a software-performed scan, with special attention being paid to increases/decreases in assets. If an irregularity is detected, the Judicial Council discusses it at a public hearing and explanations from the judge concerned are sought. An increase in a judge’s assets exceeding a value of 50 000€ (threshold decreased from 100 000€ in 2016) is to automatically trigger a discussion with the judge.
45. The authorities now report that on 26 March 2018 the Judicial Council adopted decision no. 75/2018 establishing a commission for the control of 2017 asset declarations to prepare summary conclusions on the assessment of the declarations and to discuss it publicly at a meeting of the Judicial Council. All 2017 asset declarations have been checked during 2018 and several judges were called to explain discrepancies. All judges provided explanations considered sufficient and no sanction has been imposed. In December 2018 the Judicial Council adopted a decision terminating the evaluation of 2017 judges’ asset declarations. Currently declarations of 2018 are being evaluated. The authorities further submit, that the Proposal on implementation of GRECO’s recommendations referred to in paragraph 6 above proposes an increase in the staff of the Judicial Council Chancellery in order to enhance the assessment of judges’ asset declarations and that financial resources for 3 new posts to be created in 2019 have been allocated to the Chancellery. Those new employees should primarily be responsible for the in-depth assessment of asset declarations. Selection procedures for these employees are currently on-going.
46. GRECO takes note of the information provided. It appreciates the establishment of a Judicial Council commission to control asset declarations and the creation of 3 new posts to ensure in-depth quality checks of declarations submitted by judges.

These measures have a potential to strengthen the scrutiny of asset declarations as requested in the recommendation.

47. GRECO concludes that recommendation xi has been implemented satisfactorily.

Corruption prevention in respect of prosecutors

Recommendation xiv.

48. *GRECO recommended that the data contained in the affidavits and asset declarations of prosecutors be made publicly accessible in practice and all obstacles to such access be removed, with due regard to the privacy and security of prosecutors and their family members who are subject to a reporting obligation.*
49. This recommendation was categorised as partly implemented in the Second Compliance Report. GRECO had welcomed the amendments to the Act on Prosecutors and Candidate Prosecutors (APCP), effective as of January 2016, that introduced a requirement to publish and keep up to date the list of the country's prosecutors. That list is published on the web site of the Prosecutor General's Office and prosecutors' declarations of assets are available on the same website. GRECO had however noted that the form used had a different format from that used by judges and that the information published mostly lists types of assets and liabilities, not their monetary value. That situation was to be rectified in order to allow the public to form an objective view of the value of each item of a prosecutor's assets or their global value.
50. The authorities now refer to the document prepared by the Ministry of Justice and adopted by the Government in January 2019 on measures to implement GRECO recommendations, which in point D.9 makes the Prosecutor General responsible for ensuring that the value of assets reported in prosecutors' asset declarations is consistently identified.
51. GRECO takes note of the information provided. While reporting value-related information in asset declarations of public prosecutors is a necessary prerequisite for proper control of their affidavits and asset declarations, GRECO assumes that such information has been disclosed to the Prosecutor General before. The persistent concern is the non-disclosure by prosecutors of the value of assets to allow for public scrutiny.
52. GRECO concludes that recommendation xiv remains partly implemented.

Recommendation xvi.

53. *GRECO recommended introducing an obligation on prosecutors to declare liabilities (e.g. debts and loans) and gifts above a certain threshold.*
54. This recommendation was assessed partly implemented in the Second Compliance Report. GRECO had acknowledged the new obligation placed on prosecutors to declare liabilities, but noted that the 6 600€ threshold was high.
55. The authorities refer to the document prepared by the Ministry of Justice adopted by the Government in January 2019 which states that an analysis should be done to propose possible solutions. Furthermore, they refer to the ban on prosecutors accepting any gifts in their professional capacity (sec. 26 par. 1 n of Act no. 154/2001 Coll. on Prosecutors and Prosecutor Candidates and Art. 1.4 of the Code of Ethics for Prosecutors).

56. GRECO takes note of the information provided and welcomes the information on an analysis to be prepared by the Minister of Justice on the threshold of 6 600€ to report liabilities (including gifts). GRECO trusts that further changes will be made to take GRECO's recommendation fully on board.
57. GRECO concludes that recommendation xvi remains partly implemented.

III. CONCLUSIONS

58. **In view of the above, GRECO concludes that the Slovak Republic has now implemented satisfactorily or dealt with in a satisfactory manner seven of the sixteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, six recommendations have been partly implemented and three recommendations have not been implemented.
59. More specifically, recommendations vi, vii, ix, xi, xii, xiii and xv have been implemented satisfactorily, recommendations iii, iv, viii, x, xiv and xvi have been partly implemented and recommendations i, ii, and v remain not implemented.
60. As for members of parliament, an amendment of the constitutional Act on Protection of Public Interest has been adopted by the Parliament and, once enforced, it will implement some elements of recommendation iv, notably obligation to declare gifts or other benefits and the use of immovable or movable assets. Above all, a draft Code of Ethics that is to address *inter alia* conflicts of interest and the acceptance of gifts and other benefits by MPs, remains to be finalised by a parliamentary working group and submitted to Parliament for formal adoption. Regrettably, political consensus has still not been reached on how to attain greater transparency of the legislative process by regulating MPs' relations with third parties, including lobbyists, or on how to further strengthen supervision and enforcement of financial disclosure rules.
61. With respect to judges, work is on-going to refine the "interpretation rules" of the new Judicial Code of Conduct relating *inter alia* to conflicts of interest and to provide examples from practise. The enforcement of the rules of asset declarations have been strengthened. The threshold for declaring gifts received by judges in their personal capacity nevertheless remains high and should be subject to further discussions following the analysis to be prepared by the Ministry of Justice. This also applies in relation to the threshold for declaring gifts received by prosecutors. As regards prosecutors specifically, the information from prosecutors' asset declarations still remains to be made public.
62. The Slovak Republic is making some progress to implement the recommendations contained in the Fourth Round Evaluation Report. GRECO notes that further reforms are underway in respect of a number of the pending recommendation. It encourages the country to pursue these efforts. Pursuant to Rule 31 revised, paragraph 9 of the Rules of Procedure, GRECO invites the Head of the Slovak delegation to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations i to v, viii, x, xiv and xvi) by 31 December 2019.
63. Finally, GRECO invites the authorities of the Slovak Republic to authorise, as soon as possible, the publication of this report, to translate it into the national language and to make the translation public.