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FOURTH EVALUATION ROUND

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

SECOND *INTERIM* COMPLIANCE REPORT SERBIA

Adopted by GRECO at its 90th Plenary Meeting
(Strasbourg, 21 – 25 March 2022)

I. INTRODUCTION

1. This Second Interim Compliance Report assesses the measures taken by the authorities of Serbia to implement the pending recommendations issued in the Fourth Round Evaluation Report on Serbia (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The [Fourth Evaluation Round Report on Serbia](#) was adopted by GRECO at its 68th Plenary Meeting (19 June 2015) and made public on 2 July 2015, following authorisation by Serbia. The first [Compliance Report](#) was adopted at GRECO's 77th Plenary Meeting (20 October 2017). GRECO concluded that the very low level of compliance with the recommendations was "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure, and therefore decided to apply Rule 32, paragraph 2.i) in respect of members not in compliance with the recommendations contained in the mutual evaluation report. The [Interim Compliance Report](#) was adopted at GRECO's 82nd Plenary Meeting (22 March 2019). It concluded that the overall level of compliance with the recommendations was no longer "globally unsatisfactory" as ten recommendations had been partly implemented.
3. The [Second Compliance Report](#) (GrecoRC4(2020)12) was adopted at the 86th Plenary (26-29 October 2020) and made public on 26 November 2020, following authorisation by Serbia. GRECO concluded that at this stage, only two recommendations had been implemented satisfactorily, while the vast majority (10) of the recommendations remained partly implemented and one was not implemented. It concluded that the situation was "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO therefore decided to again apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report and asked the Head of delegation of Serbia to provide a report on the progress made in implementing the outstanding recommendations by 31 October 2021. The Situation report was received on 29 October 2021 and served, together with information submitted subsequently, as the basis for this Second Interim Compliance Report, drawn up by the rapporteurs, Mr Jens-Oscar NERGARD (Norway) and Ms Natalia ROKOSZ (Poland), with the assistance of GRECO's Secretariat.
4. This [Second Interim Compliance Report](#) assesses the implementation of the outstanding recommendations since the adoption of the Second Compliance Report and provides an overall assessment of Serbia's level of compliance with these recommendations.

II. ANALYSIS

Corruption prevention in respect of members of parliament

5. It is recalled that GRECO addressed 13 recommendations to Serbia in its Evaluation Report. In the Second Compliance Report recommendations iii and xiii had been implemented satisfactorily. Compliance with the remaining recommendations is dealt with below.

Recommendation i.

6. *GRECO recommended that the transparency of the legislative process be further improved (i) by ensuring that draft legislation, amendments to such drafts and the agendas and outcome of committee sittings are disclosed in a timely manner, that adequate timeframes are in place for submitting amendments and that the urgent procedure is applied as an exception and not as a rule and (ii) by further developing the rules on public debates and public hearings and ensuring their implementation in practice.*
7. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. As regards the first part of the recommendation, GRECO acknowledged that the transparency of the law drafting process had improved, as well as public participation on draft laws. It noted that the use of urgent procedures was decreasing. However, it was still possible through this procedure to introduce late amendments which had not been subject to public information and debate in due time. The second part of the recommendation was considered as implemented satisfactorily.
8. The Serbian authorities now stress that public information on the work of Parliament has been further strengthened through television and internet broadcasts of the National Assembly plenary sessions and commission meetings, press releases and press conferences. Documentation and archives of the National Assembly are open to the media, national and international associations and citizens. Notes and minutes from the parliamentary sessions are published on the official website of the National Assembly, which is updated daily. The transparency of the legislative process has been enhanced by publication of draft laws and other relevant acts of to the National Assembly on its official website (www.parlament.rs). Convocations to sittings of the National Assembly and its commissions are also announced immediately.
9. The authorities furthermore indicate that urgent procedure for submitting amendments is regulated by the Rules of Procedure of the National Assembly¹. Amendments can be proposed to be adopted by urgent procedure by stating valid reasons for the application of such a procedure, only in exceptional circumstances prescribed by the Rules of Procedure. At the beginning of the parliamentary session, when determining the agenda, Parliament decides on the proposals introduced by individual parliamentarians or the Government, no later than 24 hours before the beginning of the session to pass amendments / laws by urgent procedure. If the National Assembly does not accept the draft law/amendment proposed to be adopted through an urgent procedure, the text can only be examined after 15 days from the day of submission of the urgent procedure request. During extraordinary sessions of the National Assembly, a request for using the urgent procedure is most often accepted when there is a clear need and valid reasons for fulfilling international obligations and the need to harmonise national laws with the *acquis communautaire*. In all other cases, it is not possible to enact a law by urgent procedure, unless it is demonstrated that the exceptional circumstances set out in the Rules of Procedure apply. The authorities underline that there is clear progress in reducing the number of laws adopted through urgent procedures. In the legislature following the 2020 elections, from 3 August 2020 to 26 October 2021, the National Assembly adopted a total of 178 laws, of which only 7 (less than 4 %) in urgent procedures. In respect of 115 other acts (strategies, decisions, conclusions, authentic interpretations) only 39 (34 %) were accepted in urgent procedures. This can be compared with the year 2015 where 46 % of the laws were adopted in urgent procedures, 47 % in 2018 and 18 % in 2019.

¹ Articles 161-168.

10. GRECO takes note of the information provided. It would appear from the information submitted by the authorities that progress has been achieved in order to disclose parliamentary work in a more timely manner. However, as far as GRECO can see, concrete timeframes are still not introduced in the rules. GRECO also notes from the statistics submitted by the authorities that the use of the urgent procedure for adopting laws has decreased significantly within the framework of the new legislature as requested by the recommendation. This goes in the right direction. However, the Rules of Procedure of the National Assembly, which deal with this urgent procedure, have not evolved, which still leaves a too wide space to introduce 24 hours before the beginning of the parliamentary session late amendments which had then not been subject to public information and debate in due time.

11. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

12. *GRECO recommended (i) swiftly proceeding with the adoption of a Code of Conduct for members of parliament and ensuring that clear guidance is provided for the avoidance and resolution of conflicts of interest and (ii) ensuring that the public is given easy access to the future Code and that it is effectively implemented in practice, including by raising awareness among members of parliament on the standards expected of them and by providing them with confidential counselling and dedicated training.*

13. It is recalled that in the Second Compliance Report, this recommendation was not implemented, as a Code of Conduct for parliamentarians had not been adopted, and proper guidance, training and counselling were still missing.

14. The Serbian authorities now report that the National Assembly adopted a Code of Conduct for Members of Parliament on 24 December 2020. It was amended on 23 September 2021 to include, *inter alia*, to comply with recommendations made by the Council of Europe. The Code establishes basic principles, general ethical values and rules of conduct of parliamentarians, and deals with the transparency of their work. It includes provisions aimed at avoiding and resolving conflicts of interest², including a procedure for reporting possible conflicts of interest³, which includes the publication of declarations of private interests on the National Assembly's website. Measures to sanction violations of the Code are also included, such as reprimand and public reprimand, as well as fines for severe violations. The Committee on Administrative-Budgetary and Mandate-Immunity Issues of the National Assembly is entrusted with the supervision of the application of the Code. The authorities indicate that the Committee has already addressed cases since the entry into force of the Code.

15. Furthermore, the Code provides that an Ethics Commission (five members) is established to ensure its application. The members (three university professors and two representatives of the National Assembly professional service) are elected, according to a detailed procedure, by the National Assembly for five years and cannot be re-elected. This Commission has been set up. It has adopted a Guidebook for the Application of the Code, including practical examples of different types of private interests of parliamentarians in relation to issues that are considered by Parliament, as well as ways to resolve and manage conflicts of interest. The Commission also provides for confidential consultations to parliamentarians regarding the application of the Code. Two Advisors have been appointed to that end. The Commission is entitled to provide non-binding opinions to the Committee on Administrative-Budgetary and Mandate-Immunity Issues in respect of violations of the Code, to be

² In particular articles 3, 6 and 10 of the Code.

³ Article 12 of the Code.

published on the Parliament's website. The Ethics Commission is to submit to the National Assembly an annual report on its work. The Commission is also responsible for organising and conducting trainings for parliamentarians on the application of the Code. A training programme has been adopted to raise parliamentarians' awareness on professional standards of conduct and the implementation of the Law on Prevention of Corruption and the Code of Conduct. A training has been held online (due to the sanitary crisis) by the Ethics Commission and the Agency for Prevention of Corruption.

16. The authorities furthermore indicate that the Code has been published on the National Assembly's website and that all parliamentarians have been given a printed booklet of the Code after its adoption. In addition, all parliamentarians have received the Guidelines for Implementation of the Code by email, and these Guidelines have been published on the website of the National Assembly.
17. GRECO welcomes the adoption of the Code of Conduct for Parliamentarians, which has been developed in co-operation within the framework of technical assistance provided by the Council of Europe. GRECO also takes note of the Guidelines for the implementation of the Code. These documents are made available to the public and accessible on-line. GRECO notes that the Code provides for mechanisms aimed at ensuring its proper implementation, including the role of the Committee on Administrative-Budgetary and Mandate-Immunity Issues, and an Ethics Commission which has been set up. Confidential counselling is ensured by two Advisors appointed by the Ethics Commission. GRECO also notes that awareness raising measures, as well as training sessions have been organised for parliamentarians and are due to be systematised. The measures taken are in line with the requirements of the recommendation.
18. GRECO concludes that recommendation ii has been implemented satisfactorily.

Corruption prevention in respect of judges

Recommendation iv.

19. *GRECO recommended (i) changing the composition of the High Judicial Council, in particular by excluding the National Assembly from the election of its members, providing that at least half its members are judges elected by their peers and abolishing the ex officio membership of representatives of the executive and legislative powers; (ii) taking appropriate measures to further develop the role of the High Judicial Council as a genuine self-governing body which acts in a pro-active and transparent manner.*
20. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented. As regards the first part of the recommendation, no changes of the composition of the High Judicial Council (HJC) as recommended had taken place. In respect of the second part of the recommendation GRECO noted that the HJC played a pro-active role as regards communication, to defend the court system and individual judges against political attacks and in the election of judges. It also noted that the HJC had also some budgetary and management autonomy, but not a full budgetary autonomy.
21. The Serbian authorities now indicate that the amendments to the Constitution have been adopted by Parliament on 30 November 2021, confirmed by referendum on 16 January 2022 and promulgated on 9 February 2022. They include a new composition of the HJC with a majority of judges elected by their peers and exclude the *ex officio* membership of the Minister of Justice and the President of the authorised committee of the National Assembly.

22. The authorities also point out that the revised Constitution defines the HJC as an independent body empowered to provide for and guarantee the independence of courts and judges. They also stress that the sessions of the HJC are public, and that its session agenda, session minutes and working agenda, as well as its decisions, are published on its website – and in the Official Gazette as regards HJC’s decisions. A Work Newsletter of the HJC is published regularly, and the Council issues regular statements in the media related to its activities. Members of the HJC and employees of the Council’s Administrative Office attended a workshop on media and communication skills in July 2021, organised within the project of a joint programme of the European Union and the Council of Europe.
23. GRECO welcomes the adoption and promulgation of the amendments to the Constitution. These amendments comply with well-established European standards, i.e., that at least half of the members of the HJC are judges elected by their peers and that the *ex officio* membership of representatives of the executive and legislative powers is abolished. The first part of the recommendation is therefore implemented satisfactorily. GRECO notes, regarding the second part of the recommendation, that the Constitution establishes the HJC as an independent body which is to guarantee the independence of courts and judges, and that further measures have been taken and implemented to strengthen effectively the transparency of the activity of the HJC and communication skills of its members and staff. Measures remain, however, to be taken to ensure budgetary autonomy of the HJC.
24. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

25. *GRECO recommended reforming the procedures for the recruitment and promotion of judges and court presidents, in particular by excluding the National Assembly from the process, ensuring that decisions are made on the basis of clear and objective criteria, in a transparent manner and that positions of court presidents are occupied on an acting basis only for short periods of time.*
26. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented. GRECO noted that the intended constitutional amendments were still pending. It acknowledged the existing normative framework implemented and the methods taken to improve the objectivity and transparency of the procedures for recruiting judges and court presidents.
27. The Serbian authorities now indicate that the amendments of the Constitution (see para 21 above) provide for the exclusion of the National Assembly from the process of recruitment of judges and abolish the first term recruitment period. Judges are now elected by the HJC for a permanent tenure. They indicate that, from a total of 159 courts, only 7 have appointed acting court presidents, the remaining courts having elected their presidents. The authorities underline that the Rules of Procedure of the HJC provide the procedure for proposing candidates for the position of court presidents. Interviews with candidates conducted by the HJC can be followed by the interested persons, and the Commission publishes the list of candidates and their evaluations on its website.
28. GRECO notes that the amendments of the Constitution make it possible to reform the procedures for the recruitment and promotion of judges and court presidents, which are now within the power of the HJC, as expected in this recommendation. GRECO reiterates its appreciation of the existing normative framework implemented and the methods taken to improve the objectivity and transparency of the procedures for recruiting judges and court presidents. It also notes that the number of acting court

presidents is decreasing significantly, which is in line with the objective of this recommendation.

29. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

30. *GRECO recommended that the system of appraisal of judges' performance be reviewed (i) by introducing more qualitative criteria and (ii) by abolishing the rule that unsatisfactory evaluation results systematically lead to dismissal of the judges concerned.*
31. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented, as no new information had been provided since the adoption of the previous report. GRECO noted in particular that the case weighting methodology system was not fully operational and implemented in all courts and, in any case, was insufficient to establish a proper balance between quantitative and qualitative criteria in order to ensure a proper appraisal of judges' performance. The issue of the mark "unsatisfactory performance" remained to be clarified within the constitutional reform process.
32. The Serbian authorities now report that on 22 July 2021, Parliament amended the Law on Judges⁴, by deleting the provision which prescribed that insufficiently successful performance of a judicial function was considered unprofessional if a judge receives the assessment "unsatisfactory" in accordance with the criteria and standards for evaluating the work of judges. In this way, the discrepancy has been removed between the Law on Judges and the provisions of the Rulebook on the Criteria, Standards, Procedure and Bodies for Evaluation of Performance of Judges and Court Presidents, which stipulates that a judge whose work is evaluated as "unsatisfactory" must be referred to mandatory training.
33. The amendments of the Law also introduce a new criterion of "case weighting formula" in the system of case distribution to judges, which will change the evaluation of judges' work. Furthermore, a working group has been established for monitoring the effects of the implementation of the laws concerning the election, evaluation, and promotion of judges. A report is being prepared regarding the formal introduction of qualitative criteria into the evaluation system. Apart from this, the authorities point out that the judge-members of the HJC, while deciding on the promotion of judges, have access to the automated case management system (AVP) which provides data on the structure of cases assigned to judges. Judges' decisions, which are scanned, can also be examined which makes it possible to assess the quality of judges' work. On 12 May 2021, the HJC submitted to all courts its report on the Evaluation of the Work of Judges and Court Presidents from 2020 to May 2021, in order to promote the importance of evaluating the work of judges and court presidents and its impact on career advancement. The Report includes information on the number of judges and court presidents evaluated, the performance assessments, the number of objections and decisions of the Commission deciding on objections. The report is also published on the Council's website.
34. Moreover, the authorities indicate that the revised Constitution (see para 21 above) now lists the reasons for dismissing judges and excludes the wording "incompetence" as a reason for dismissal, as that notion could be abused.
35. GRECO notes the information provided on legislative amendments and various recent measures implemented which strengthen the evaluation of judges on the basis of

⁴ Official Gazette. 76/21 of July 28, 2021.

qualitative criteria, in particular through the practice developed by the HJC. It invites the authorities to ensure that, while assessing the quality of judges' work from the analysis of their decisions, this assessment does not interfere with individual judges' independence in their decision making. It also notes that other measures are planned on the basis of the work of a special working group, for introducing formally qualitative criteria into the evaluation system. GRECO acknowledges that the transparency of the evaluation system has been enhanced both within the judiciary and vis-à-vis the public. This is in line with the first part of the recommendation. Moreover, GRECO welcomes the recent amendment of the Constitution and of the Law on Judges which clarify that an unsatisfactory evaluation of judges does not systematically result in dismissal of the judge concerned. This is in line with the second part of the recommendation.

36. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

37. *GRECO recommended (i) that the Code of Ethics for judges be communicated effectively to all judges and complemented by further written guidance on ethical questions – including explanations, interpretative guidance and practical examples – and regularly updated; (ii) that dedicated training of a practice-oriented nature and confidential counselling within the judiciary be provided for all categories of judges.*
38. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. More precisely, GRECO noted the publication and dissemination of the "Guidelines for the prevention of undue influence on judges", the training and awareness raising activities organised for judges, and the disciplinary decisions published on the HJC's website to guide judges. However, GRECO was expecting the Ethics Committee of the HJC to implement its mandate as regards confidential counselling on judicial ethics.
39. The Serbian authorities now report that on 21 August 2021 the Code of Ethics was submitted to all judges. They were also informed that the HJC's website contains a database of decisions of disciplinary bodies and a database of decisions of the HJC on appeals, including decisions related to violations of the Code of Ethics and the compatibility of duties with the judicial functions. The HJC, through the Judicial Academy, provides training for judges on ethics and the application of the Code of Ethics. Between January and July 2021, six seminars were held on ethics and integrity, and four seminars on disciplinary responsibility and ethics. The Judicial Academy trained 79 judges on ethics, including in respect of Council of Europe's standards on ethics, the Code of Ethics and the Rulebook, as well as a training methodology. A first training for judges with up to three years of experience from basic courts in Belgrade is planned. Moreover, the authorities report that in December 2020, within the framework of the 2016 Project "EU for Serbia - Support to the High Judicial Council"⁵, a brochure "Judicial Ethics in Serbia - Analysis of the Legal Framework and Recommendations for promotion" was published on the HJC's website. The HJC undertook a series of activities in order to raise awareness among judges about the existence and content of the Code of Ethics, as well as to acquaint them with practical examples of the application of the provisions of the Code of Ethics.
40. The authorities also indicate that on 22 July 2021 Parliament adopted amendments to the Law on the High Judicial Council and the Law on Judges so that the Ethics Committee of the HJC to become a permanent body. The role and powers of the Ethics Committee was explained by the HJC to all judges, who were publicly invited

⁵ Project funded by the European Union and implemented by the German Organization for International Cooperation, GTZ.

to submit proposals for members of this Committee. On 14 October 2021, the HJC appointed seven members of the Ethics Committee (four judges and three retired judges), which held its first session on 15 October 2021. The same day, the HJC adopted a new Rulebook on the work of its Ethics Committee which provides that this Committee appoints from among its members one or more advisor for the purpose of providing confidential consultation to judges, court presidents and HJC's members on the application of the Code of Ethics for Judges and the Code of Ethics for members of the HJC. The appointment of the members of the Ethics Committee was communicated to all judges, as well as the appointment of a Confidential Advisor together with information that judges can address the Ethics Committee regarding ethical issues. Since the appointment, the Ethics Committee has acted in one case, while the Confidential Advisor has acted in three cases.

41. GRECO notes that Code of Ethics for judges, as well as the relevant other information regarding judicial ethics and integrity, have been communicated to all judges and that further guidance on ethical questions is provided to judges, including via the HJC's website. Moreover, dedicated trainings on ethical issues are now regularly organised for judges. GRECO welcomes the effective establishment, as a permanent body, of the HJC's Ethics Committee, which has been given the task of providing confidential counselling for all categories of judges through a confidential advisor. This is in accordance with the requirements of the recommendation.
42. GRECO concludes that recommendation vii has been implemented satisfactorily.

Corruption prevention in respect of prosecutors

Recommendation viii.

43. *GRECO recommended (i) changing the composition of the State Prosecutorial Council (SPC), in particular by excluding the National Assembly from the election of its members, providing that a substantial proportion of its members are prosecutors elected by their peers and by abolishing the ex officio membership of representatives of the executive and legislative powers; (ii) taking appropriate measures to strengthen the role of the SPC as a genuine self-governing body which acts in a proactive and transparent manner.*
44. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented. Regarding the first part of the recommendation, no changes of the composition of the State Prosecutorial Council (SPC) as recommended had taken place. Concerning the second part of the recommendation, GRECO acknowledged the active role of the SPC to defend the role of the Prosecution Service, as a self-governing body, as well as its increased resources. However, the Rules of Procedure of the Commissioner for autonomy had not been adopted.
45. The Serbian authorities now report that the amendments of the Constitution (see para 21 above), changes the composition of the SPC, now composed of five prosecutors elected by their peers, four prominent lawyers elected by Parliament, the Supreme Public Prosecutor and the Minister of Justice. They stress that the Minister of Justice remains an *ex officio* member but is excluded from disciplinary procedures. They also report that on 23 December 2020, the National Assembly elected six members of the SPC among public prosecutors and deputy public prosecutors, and one member among law professors.
46. As regards the second part of the recommendation, the authorities indicate that the SPC has further strengthened its role as a self-governing body that acts proactively and transparently. The vacancies at the position of public prosecutors are being decreased (63 positions are filled and 27 remain to be filled) and the number of

deputy public prosecutors has been increased to 805 (704 positions are currently filled) in the 90 public prosecutor's offices. On 19 April 2021, the SPC amended its Rules of Procedure and elected a new Commissioner for Autonomy on 23 April 2021, entrusted with the protection of prosecutors against undue influence. The Commissioner for Autonomy cooperates with the Ethics Committee and disciplinary bodies and submits to the SPC an annual report on illicit influence in respect of prosecutors. In 2021, the Commissioner acted in seven cases.

47. GRECO notes that the recent constitutional amendments concerning the composition of the SPC are not fully compatible with the first part of the recommendation, as the National Assembly continues to be involved in the appointment of some members and the Minister of Justice remains an *ex officio* member. Concerning the second part of the recommendation, GRECO acknowledges what was reported in previous reports and that the Rules of Procedure of the SPC have been amended so that the Commissioner for Autonomy can act on a formal basis to address undue influences against prosecutors. This part of the recommendation can be considered as implemented satisfactorily.
48. GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix.

49. *GRECO recommended reforming the procedures for the recruitment and promotion of public prosecutors and deputy public prosecutors, in particular by excluding the National Assembly from the process, limiting the discretion of the government and ensuring that decisions are made on the basis of clear and objective criteria in a transparent manner and that positions of public prosecutors (i.e. heads of office) are occupied on an acting basis only for a short period of time.*
50. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented, pending the adoption of the draft constitutional amendments addressing parts of the recommendation. No new information was provided.
51. The Serbian authorities now indicate that the recent amendments of the Constitution (see para 21 above) exclude the National Assembly from the process of recruitment and promotion of chief public prosecutors and public prosecutors, but not in respect of the Supreme Public Prosecutor who is to be elected by Parliament upon a proposal by the SPC, following a public competition. The revised Constitution also abolishes the first term recruitment period. Moreover, the authorities indicate that more than half of the public prosecutors occupying their position on an acting basis have been appointed for less than 2 months, and that the Law on Public Prosecution prescribes that an acting position cannot last more than one year. They stress that the process for recruiting public prosecutors to fill the current acting positions has started on 24 December 2021.
52. GRECO notes that the constitutional amendments exclude the National Assembly from the process of recruiting and promoting prosecutors, which is in line with the recommendation. It notes that the Supreme Public Prosecutor, however, remains elected by Parliament, but upon a proposal by the SPC and after a public competition, which appears to limit the discretionary powers of the executive and legislative powers in this process. This is also in line with the purpose of the recommendation. GRECO also notes that the first term recruitment period has been abolished. However, no information has been provided to show that the appointment and promotion of prosecutors by the SPC are to be based on clear and objective criteria and in a transparent manner. Moreover, GRECO notes that a significant number of acting prosecutors still occupy their functions for more than two months and that the process for fulfilling such acting positions have not been finalised yet.

53. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.

54. *GRECO recommended that the system for appraising the performance of public prosecutors and deputy public prosecutors be reviewed (i) by revising the quantitative indicators and ensuring that evaluation criteria consist principally of qualitative indicators and (ii) by abolishing the rule that unsatisfactory evaluation results systematically lead to dismissal and ensuring that prosecutors have adequate possibilities to contribute to the evaluation process.*

55. It is recalled that in the Second Compliance Report, this recommendation remained partly implemented, as some evaluation criteria were underway and that the constitutional reform would address this issue as well, but no new information was provided.

56. The Serbian authorities now indicate, as regards the first part of the recommendation, that the SPC in April 2021 established two working groups for monitoring judicial laws and for training programmes in order to take into account GRECO's recommendations and ensure a higher degree of clarity, objectivity and uniformity of the appraisal system through qualitative and quantitative indicators. Draft laws relating to the selection, evaluation and promotion of public prosecutors have been suggested by the Appellate Public Prosecutor's Offices. The authorities stress that the revised Constitution abolishes the first term recruitment period for prosecutors, who are elected immediately to permanent positions. A revision of the Rulebook on Criteria and Criteria for Evaluating the Work of Public Prosecutors and Deputy Public Prosecutors is also proposed, so that timeliness and quality of the work are better taken into account. As regards the second part of the recommendation, the authorities indicate that the revised Constitution now makes it possible also to amend the Law on Public Prosecution, so that the rule that unsatisfactory evaluation results systematically to dismissal is abolished.

57. GRECO takes note of the information provided, i.e. that a variety of proposals have been suggested to review the system for appraising the performance of prosecutors, including in respect of qualitative indicators. It also notes that the constitutional amendments make it possible to amend the relevant legislation relating to the results of unsatisfactory evaluations of prosecutors. GRECO encourages the Serbian authorities to review the system for appraising the performance of prosecutors accordingly.

58. GRECO concludes that recommendation x remains partly implemented.

Recommendation xi.

59. *GRECO recommended (i) that the Code of Ethics for public prosecutors and deputy public prosecutors be communicated effectively to all prosecutors and complemented by further written guidance on ethical questions – including explanations, interpretative guidance and practical examples – and regularly updated; ii) that dedicated training of a practice-oriented nature and confidential counselling within the prosecution service be provided for all categories of prosecutors.*

60. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. GRECO encouraged the authorities to adopt the new code of ethics under preparation and to organise relevant training, guidance and awareness-raising. It pointed out the need for the Ethics Committee to provide confidential counselling

for all categories of prosecutors, while recalling its preference for such counselling to be organised outside the structure of the SPC.

61. The Serbian authorities now report that in April 2021 the SPC adopted its new Code of Ethics for Public Prosecutors and Deputy Public Prosecutors, together with Guidelines for the Application of Ethical Principles. It also decided to set up the Ethics Committee, composed of 5 members, including one member of the SPC. In July 2021, the SPC amended the Rules of Procedure of the Ethics Committee, setting up the function of the Confidential Advisor, to be appointed for three years, renewable, from outside the members of the SPC and among persons with special knowledge of ethics. The Confidential Advisor was appointed in September 2021. All public prosecutors were informed about this appointment and invited to contact him by e-mail. The Ethics Committee adopted the Guidelines for the work of the Confidential Advisor in October 2021. According to the Rules of Procedure, before addressing the Ethics Committee, prosecutors may address the Confidential Advisor for prior advice or clarification regarding the application of the Code of Ethics and the implementation of the Ethics Committee's responsibilities. The Confidential Advisor has addressed 5 cases so far.
62. The authorities furthermore indicate that they benefited from the support of the joint programme between the European Union and the Council of Europe for "Strengthening the Independence and Accountability of the Judiciary", including for drafting the Guidelines for the work of the Confidential Advisor and a brochure on public prosecutorial ethics containing the Code of Ethics and Guidelines for its implementation, delivered to all prosecutors
63. GRECO welcomes the adoption by the SPC of a new Code of Ethics for prosecutors, together with appropriate Guidelines, distributed to all prosecutors. The Code, which is available to GRECO, contains in summary ethical principles to be applied by all prosecutors as regards legality, independence, impartiality, respect of the law and proportionality and rules to avoid internal and external pressures. GRECO notes that the Judicial Academy has organised trainings on ethical issues aimed at prosecutors and encourages the authorities to pursue such trainings on a regular basis. GRECO also welcomes the setting up of the Ethics Committee and the appointment of the Confidential Advisor, who is operational. The measures taken comply with the requirements of the recommendation.
64. GRECO concludes that recommendation xi has been implemented satisfactorily.

Regarding all categories of persons

Recommendation xii.

65. *GRECO recommended that the rules on conflicts of interest and related matters that apply to members of parliament, judges and prosecutors, inter alia, those that concern the definition and management of conflicts of interest, the holding of several public offices concurrently and secondary activities, asset declarations (scope, disclosure of information and control) and sanctions, be further developed and clarified.*
66. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. More precisely, GRECO noted the adoption of the new Law on Corruption Prevention, which constitutes an improvement of the situation regarding integrity-related matters. It also pointed out that the "Manual for recognising and managing conflicts of interest and incompatibility of offices" was due to be made public, and that the new Law on determining the origin of property and the special tax had been adopted. This normative framework, applicable to parliamentarians,

judges and prosecutors, was in line with GRECO's concerns. However, GRECO noted that the new Law on Corruption Prevention presented shortcomings, *inter alia* as regards restrictions for public officials to performing business activities, the existence of a full discretionary right to report or not on parts of their assets - several categories of public officials' assets were not made public, the low level of fines for breaches of the law and the non-criminalisation of the failure by public officials to report on income.

67. The Serbian authorities now indicate that on 23 September 2021 Parliament adopted amendments to the Law on Corruption Prevention, based on GRECO's recommendations⁶. The amended legislation introduces criteria for regulating the performance of business activities by public officials, in particular in respect of conflicts of interest. The law assigns a specific role to the Agency for Prevention of Corruption (APC) to regulate in this area. The law is also specific as regards the role of the APC in the field of contracts in relation to public authorities. Furthermore, restrictions upon termination of public office are governed by more specific rules. In addition, the discretionary right of public officials to report or not on part of their assets has been abolished. Finally, the APC has been given powers to impose more severe sanctions against public officials for violations of the Law. Failure of a public official to report income, or submission of false information on income (in addition to the failure to report assets) has been criminalised, etc.
68. The authorities also indicate that, with the support of the USAID, the APC has drafted a "Manual for Recognizing and Managing Conflict of Interest and Incompatibility of Offices", published on the APC's website. It aims at raising the awareness among public officials on the rules governing conflicts of interest. Webinars and workshops were organised by the APC on this Manual and integrity-related matters in general. Furthermore, in 2020, the APC developed a video material on conflicts of interest, available on its website⁷. In addition, the APC drafted in 2020 another Manual for Public Officials, published on its web site and distributed in printed version, to enable public officials to better understand the concept of the new Law on Corruption Prevention and to facilitate the fulfilment of their legal obligations. All these materials have been updated to take into account the amendments to the Law on Corruption Prevention, and online trainings have been organised on these amendments.
69. GRECO welcomes the adoption by Parliament of amendments to the law to cope with the shortcomings that it had identified in the Law on Corruption Prevention of 2019, as well as the publication of manuals and organisation of awareness-raising activities and trainings aimed at public officials for ensuring the effective implementation of this legislative framework. These measures are likely to strengthen the framework aimed at preventing and combating conflicts of interest of parliamentarians, judges and prosecutors, which is the underlying concern of the current recommendation.
70. GRECO concludes that recommendation xii has been dealt with in a satisfactory manner.

III. CONCLUSIONS

71. **In view of the foregoing, GRECO concludes that Serbia has implemented satisfactorily or dealt with in a satisfactory manner eight of the thirteen recommendations contained in the Fourth Round Evaluation Report.** Five recommendations remain partly implemented.

⁶ See in particular new articles 46, 48, 53 to 55, 71, 82, 101, 103 to 105 of the Law on Corruption Prevention.

⁷ <https://www.youtube.com/watch?v=KCoV0KRJb1g&t=12s>

72. More specifically, recommendations ii, iii, v, vi, vii, xi, xii and xiii have been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations i, iv, viii, ix and x have been partly implemented.
73. With respect to members of parliament, most recommendations have now been complied with satisfactorily. Transparency on the law drafting process has been further improved, state bodies disclose draft laws in a timely manner via public websites, amendments to legislative proposals are made public online, a more effective process of public participation in the legislative process at a preliminary stage has been established and public hearings are organised at Parliament on important laws. Concrete timeframes remain to be introduced in the Rules of procedure of the National Assembly. The use of urgent procedures has decreased significantly, though clearer rules have not been introduced so far to frame this practice more strictly. The Law on Lobbying is supported by a set of secondary legislation and by training and awareness raising activities. The adoption of a Code of conduct for parliamentarians, together with Guidelines for its implementation, awareness raising and training are major steps forward. An Ethics Commission has been established and a Confidential Advisor has been appointed.
74. As regards judges and prosecutors, the adoption of constitutional reforms makes it possible to implement a number of GRECO's recommendations. The composition of the High Judicial Council (HJC) now comprises a majority of judges elected by their peers and the *ex officio* membership of representatives of the executive and legislative powers has been abolished. The HJC has been recognised as an independent body under the Constitution, which is to guarantee the independence of courts and judges. Measures have been taken to strengthen the transparency of its activities, but others remain to ensure its budgetary autonomy. The National Assembly continues to be involved in the appointment of some members of the State Prosecutorial Council (SPC), and the Minister of Justice remains an *ex officio* member. The normative framework and the methods to improve the objectivity and transparency of the recruitment procedures of judges and prosecutors are to be welcomed. Training and awareness raising activities have been organised for a large number of judges and prosecutors, in particular through the Judicial Academy. The system of appraisal of the performance of judges and prosecutors has been strengthened in order to introduce qualitative criteria. The adoption of "Guidelines for the prevention of undue influence on judges" go in the right direction, and the Ethics Committee of the HJC has started implementing its mandate as regards judicial ethics, including through the appointment of a Confidential Advisor. The adoption of the Code of ethics for prosecutors is also to be welcomed, as well as the setting up of the Ethics Committee of the SPC and the appointment of its Confidential Advisor.
75. The new Law on Corruption Prevention, recently amended according to GRECO's recommendations, as well as relevant manuals and guidelines aimed at public officials, improve the rules on conflicts of interest that apply to parliamentarians, judges and prosecutors. They provide some basis for resolving conflicts of interest.
76. In view of the above, GRECO concludes that the overall level of compliance with the recommendations is no longer "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
77. Pursuant to Rule 31 revised, paragraph 8.2 of the Rules of Procedure, GRECO requests the Head of delegation of Serbia to submit additional information regarding the implementation of recommendations i, iv, viii, ix and x by 31 March 2023.

78. Finally, GRECO invites the authorities of Serbia to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.