



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

18 October 2017

Public  
GrecoRC4(2017)19

## FOURTH EVALUATION ROUND

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

## SECOND COMPLIANCE REPORT

## SLOVAK REPUBLIC

Adopted by GRECO at its 77<sup>th</sup> Plenary Meeting  
(Strasbourg, 16-18 October 2017)

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## I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of the Slovak Republic to implement the 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 61<sup>st</sup> 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 by GRECO at its 69<sup>th</sup> Plenary Meeting (16 October 2015) and made public on 12 November 2015, following authorisation by the Slovak Republic ([Greco RC-IV \(2015\) 7E](#)).
3. As required by GRECO's Rules of Procedure, the Slovak authorities submitted a Situation Report with additional information regarding actions taken to implement the 15 pending recommendations that, according to the Compliance Report, had been partly or not implemented. This report was received on 11 May 2017 and served, together with the information submitted subsequently, as a basis for the Second Compliance Report.
4. GRECO selected Romania and Germany to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Andrei FURDUI on behalf of Romania and Mr Markus BUSCH on behalf of Germany. They were assisted by GRECO's Secretariat in drawing up this 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 Report, GRECO concluded that recommendation vii had been implemented satisfactorily, recommendations ii, iii, iv, vi, viii, ix, xii, xiv, xv and xvi had been partly implemented and recommendations i, v, x, xi and xiii had not been implemented. Compliance with the 15 pending recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

6. By way of introduction, the authorities of the Slovak Republic refer to the parliamentary elections of 5 March 2016 and the new spectrum of political parties with seats in the National Council. The working group established under the previous legislature to implement GRECO recommendations had been dissolved and a new inter-parliamentary Working Group was formed for the same purpose on 12 October 2017. Different possibilities on how to implement the recommendations, such as the adoption of a Code of Conduct for MPs, amendment of the Constitutional Law on the Protection of Public Interest in the Performance of Office by Public Officials or the adoption of a new law on lobbying, are being considered. In spite of some efforts, progress is still limited. The authorities underline that the recommendations addressed to MPs touch on sensitive areas and implementing them will require a constitutional majority (three-fifths vote), e.g. to amend the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials.

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. This recommendation was considered not implemented in the Compliance Report. GRECO had taken note of attempts made between 2012 and 2015 to introduce a law on lobbying, which were not supported in the National Council. It had also 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. GRECO had recalled that the recommendation addressed the interaction of MPs with third parties and, in particular, a lack of standards on appropriate conduct, a lack of clarity on the concept of lobbying and the vulnerability to inappropriate lobbying activities during the informal, closed decision-making phase following initial public consultations on draft laws. The draft Code of Ethics did not deal with those issues, but rather with the transparent use of procedures and funds. GRECO had furthermore stressed that the recommendation required not only the introduction of standards, it also called for appropriate guidance to MPs.
9. The authorities recall that, between 31 May 2013 and 23 September 2016, seven draft laws, authored by MPs belonging to the opposition and meant to address the recommendation, were submitted to the National Council, albeit without success. Therefore, alternative approaches are currently being sought.
10. On 26 October 2015, the National Council organised, together with VIA IURIS, a non-governmental organisation, a public discussion on "Legislative procedure". It was hosted by the Deputy Chair of the Constitutional and Legal Affairs Committee of the National Council and included as keynote speakers the former judge of the Constitutional Court, the head of the Legislative Division of the Ministry of Justice as well as practising lawyers and experts from civil associations. A motion to amend the Rules of Procedure of the National Council to improve transparency of the legislative process was the core subject of the debate. The authorities reiterate the need to garner support from the widest political spectrum to attain progress under this recommendation.
11. The authorities further inform that new Act No. 400/2015 Coll. on "Creating of Legal Regulations and on Collection of Laws" entered into force on 1 January 2017. The law regulates the procedure to be followed while drafting and adopting new legal acts.
12. GRECO underscores the absence of tangible developments. Although the adoption of a new Act on Legal Regulations is a welcome step, there is no evidence that it has any effect on or consequences for the issues covered by the recommendation.
13. GRECO concludes that recommendation i remains not implemented.  
  
Recommendation ii.
14. *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.*
15. This recommendation was assessed as partly implemented in the Compliance Report. GRECO had taken note of the draft Code of Ethics for MPs (cf. paragraph 8) comprising ten articles (on ethical principles, conflicts of interest, the acceptance of

gifts and other benefits, the declaration of property and financial situation, transparency in the discharge of office, relations with employees of the Chancellery of the National Council and procedure in case of breaches). The draft appeared to tackle the elements covered by the recommendation with the exception of supervision, training, advice and counselling. Once adopted, it was intended that the Code be appended to the Rules of Procedure of the National Council.

16. The authorities state that, on 26 November 2015, the National Council amended its Rules of Procedure which became effective on 1 January 2016. New Section 9a reads: "While performing his/her functions, a Member of Parliament is obliged to behave in accordance with the principles of just conduct and morals and to observe the Constitution, laws and Code of Ethics of Member of Parliament that may be adopted by the National Council by a resolution". This amendment thus establishes a legal basis for adopting a Code of Ethics. Additionally, revised Sections 135(d) and 139(4) of the Rules have introduced MPs' liability for breaches of the Code. The authorities stress that the draft Code of Ethics has been prepared and, once endorsed by the new inter-parliamentary Working Group (cf. paragraph 6), it will be transmitted to the National Council for formal adoption.
17. GRECO welcomes the revision of the Rules of Procedure of the National Council. The legal basis for adopting a Code of Ethics for MPs and for holding MPs liable for breaches has thus been established. The authorities are urged to accelerate the procedure for its adoption and to provide training, advice and counselling to MPs, as envisaged by the second part of the recommendation.
18. GRECO concludes that recommendation ii remains partly implemented.  
  
Recommendations iii and iv.
19. *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 (recommendation iii);*
  - *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 (recommendation iv).*
20. Both recommendations were qualified as partly implemented in the Compliance Report. With respect to recommendation iii, reference had been made to article 4 of the draft Code of Ethics for MPs, which contained a general prohibition on MPs accepting gifts and other benefits that would interfere with their independence and impartiality and provided for an obligation to register gifts valued at more than 100€ in a dedicated register kept by the Parliamentary Committee on Incompatibility with Functions. As to recommendation iv, article 5 of the draft Code 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 draft bill amending the Constitutional Act had been submitted to the National Council on 28 August 2015. It contained *inter alia* provisions on more precise reporting of the assets of officials (including MPs), in particular with regard to their structure and completeness (e.g. details of functions,

jobs, activities, financial standing, loans and donations). GRECO had concluded that the two bills seemed to address the concerns underlying the recommendations.

21. With respect to recommendation iii, the authorities now again refer to the draft Code of Ethics for MPs and its provisions on "accepting gifts and other benefits". As for recommendation iv, the feasibility of revising the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials is still to be assessed by the inter-parliamentary Working Group once it has been formed (cf. paragraph 6).
22. GRECO takes note of the lack of progress compared to the situation described in the Compliance Report and concludes that recommendations iii and iv remain partly implemented.

Recommendation v.

23. *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.*
24. This recommendation was qualified as not implemented in the Compliance Report. The way to respond to the recommendation was still under discussion: instead of amending the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials, consideration was being given to dealing with the issues at stake in an ordinary law.
25. The authorities have not provided new relevant information in respect of this recommendation.
26. GRECO concludes that recommendation v remains not implemented.

#### *Corruption prevention in respect of judges*

Recommendation vi.

27. *GRECO recommended that decisions to remove court presidents be reasoned, that they follow appropriate removal proceedings and are made subject to judicial review.*
28. This recommendation was considered partly implemented in the Compliance Report. GRECO had welcomed a ruling of the Constitutional Court that the absence of procedural guarantees and of judicial review in decisions to remove court presidents was unconstitutional. As regards Section 38 para. 5 of the Act on Courts, as amended, GRECO had been satisfied that removal decisions had to be reasoned and were subject to judicial review by the Supreme Court. Concerning removal proceedings, the guarantees provided by the control procedure appeared appropriate. However, in exceptional circumstances, this control procedure was not followed and there was no written obligation on the minister to hear the court president before taking the removal decision.
29. The authorities now state that no new legislation has been passed since October 2015 and that, in their view, the Compliance Report had confused the removal procedure of court presidents with the one applicable to judges at large.

30. The removal of court presidents is regulated by the Act on Courts, as amended in 2014 (i.e. subsequent to the adoption of the Evaluation Report), and the Act on Control in State Administration. Depending on the results of a court president's work<sup>1</sup>, s/he may be removed by the Minister of Justice<sup>2</sup> on the proposal of the Judicial Council, the Judicial Board of the respective court or a president of a higher instance court. The Minister can remove a court president without a proposal if the court president does not perform his/her duties as established in the Act on Courts. Such a decision must be reasoned and can be challenged before an administrative court. Since 2012, a court president has never been removed without reason. The authorities stress that, on the basis of the Act on Control in State Administration, the Minister is to consult the court president when formulating reasons for his/her removal.
31. The other removal procedure is triggered by a judge's, including a court president's misconduct. In such cases, the Minister of Justice is to await the outcome of criminal proceedings for a criminal offence, of administrative proceedings for a minor offence, or of disciplinary proceedings for a disciplinary breach. In principle, the Minister's decision is taken on the basis of the competent body's decision, i.e. law enforcement authorities, administrative authorities, or disciplinary boards deciding on disciplinary delicts. Pursuant to the Act on Judges and Lay Judges, as amended, the Minister of Justice can ask a disciplinary board to suspend the holder of a judicial function pending its decision and it is not the Minister but the board, which consists of judges, that decides on suspension.
32. The authorities add that where a court president is being removed, a distinction is to be made each time as to whether s/he has committed the offence as a judge or as court president. Pursuant to the Act on Courts, a court president may be removed without proposal only if s/he does not perform the duties of president as established by law. In all situations, a court president is entitled to appeal the Minister's decision within 15 days.
33. GRECO appreciates the authorities' clarifications as regards the nuances of the two distinct removal procedures applicable to court presidents. It confirms that the recommendation only covers the first of the two procedures mentioned above and intends to address situations where court presidents are removed for maladministration of courts, not for misconduct in their judicial function. GRECO is satisfied that decisions to remove court presidents must be reasoned and made subject to judicial review. In this light, it concludes that the underlying concerns of the recommendation have been met.
34. GRECO concludes that recommendation vi has been implemented satisfactorily.
- Recommendations viii and ix.
35. *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 (recommendation viii);*

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<sup>1</sup> The duties of a court president and vice-president are defined in Section 42 of the Act on Courts.

<sup>2</sup> It is recalled that, pursuant to Section 35 of the Act on Courts, court presidents are appointed by the Minister of Justice for 5 years following a specific recruitment procedure. The same person can be reappointed repeatedly.

- *that a focused policy for preventing and managing conflicts of interest and corruption risks within the judiciary be elaborated and properly enforced (recommendation ix).*

36. Recommendation viii was considered partly implemented in the Compliance Report. GRECO had taken the view that the amendment of the Constitution according to which the adoption of principles of judicial ethics was within the sole competence of the Judicial Council, together with the bodies of judicial self-administration – instead of being subject to the agreement of the Minister of Justice as was the case previously – was a positive development. The broad debate that was going on among judges around the draft “Principles of Judicial Ethics” was also to be welcomed. GRECO had hoped that these moves would lead to an improved text, providing precise guidance on judges, as required by the first part of the recommendation. As regards its second part, GRECO had noted that the mechanisms for ensuring compliance with the future “Principles of Judicial Ethics” were still subject to a wide debate. Yet, the state of play concerning this text was addressed during the training sessions for judges on professional ethics that had been on-going since the adoption of the Evaluation Report. GRECO had taken the view, therefore, that the promotion of the “Principles of Judicial Ethics”, which was one of the objectives of the second part of the recommendation, was already underway.
37. As for recommendation ix, it was categorised as partly implemented in the Compliance Report. GRECO had welcomed the preparation by the Minister of Justice of the Action Plan on the prevention of corruption and conflicts of interest in the judiciary.
38. The authorities now report that the Judicial Code of Conduct was adopted by the Judicial Council of the Slovak Republic on 17 December 2015 and that the oath of office taken by judges *inter alia* includes a pledge to abide by the Code when exercising judicial function. The Judicial Council assures general supervision over the Code’s application and is responsible for ensuring that interpretation is up to date and uniform. The Council can: 1) make statements on the interpretation of the principles of judicial ethics on the proposal of a judge, a person authorised to initiate a disciplinary procedure in respect of a judge, or on the proposal of a disciplinary board; and 2) answer specific queries and resolve judges’ ethical dilemmas. The Code provides that the Council’s opinions and recommendations are to be published on the official website. The Council is moreover competent to exercise “public control of the judiciary” and “supervisory competences”, namely: 1) “take measures to strengthen the public confidence in the judiciary”<sup>3</sup>; 2) “evaluate information on action by a judge which is incompatible with the requirements of judicial competence, obtained from the courts, other public authorities or detected based on its own activities”<sup>4</sup>; 3) “propose to the President of the Judicial Council to initiate disciplinary proceedings”<sup>5</sup>; and 4) express an opinion on proposals for generally binding legal regulations setting out the organisation of the judiciary, proceedings before courts and the status of judges<sup>6</sup>. Directive No. 1/2016 governing the procedure of the Judicial Council in the exercise of competence in the field of general supervision and ethics of judges was adopted on 28 November 2016. It supplements the Code and contains additional interpretative rules<sup>7</sup>.

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<sup>3</sup> Section 3a of the Act on the Judicial Council

<sup>4</sup> Section 3b of the Act on the Judicial Council

<sup>5</sup> Ibid.

<sup>6</sup> Section 4 par. 1 letter f) of the Act on the Judicial Council

<sup>7</sup> With regard to better interpretation, the Directive specifies, for example, that consolidation of the interpretation of the principles of judicial ethics on the basis of submitted documents and information provided

39. Since the adoption of the Code, one ethical dilemma has been brought to the attention of and discussed by the Judicial Council that pertained to the membership of court presidents and vice-presidents in the Judicial Council's composition. The authorities state that the Judicial Code of Conduct has been integrated into a training programme for judicial candidates run by the Judicial Academy. The training sessions last four days and are held four times per year. One training is dedicated entirely to ethical principles. In October 2017, a seminar on judicial (and prosecutorial) ethics will be held for judges and prosecutors.
40. The authorities also submit that a draft Strategic Plan on Corruption and Conflicts of Interest Prevention within the Ministry of Justice is undergoing final internal assessment. Its goals are transparency, economic handling of public funds, strengthening of the relationship with civil society and reduction of risks of corruption. The Plan establishes competences *inter alia* for employees responsible for controlling activities, one of their competencies being control of corruption risk fields and their evaluation. A map of corruption risks is attached to the Plan as a tool for identifying and minimising such risks. Once adopted, the Plan will be subject to regular evaluation.
41. GRECO welcomes the elaboration of the new Judicial Code of Conduct. The Code outlines the general principles and some specific rules of ethical comportment, and establishes safeguards and mechanisms for the respect of judicial ethics. While representing a sound framework, the Code, in GRECO's view, is worded in too general terms and remains to be complemented by detailed "interpretation rules" to be adopted by the Judicial Council<sup>8</sup> so as to give explanations and concrete examples of actual and potential conflicts of interest derived from practice.
42. As for recommendation ix, GRECO acknowledges that the combination of the new rules, including the Judicial Code of Conduct, and the new supervisory and advisory and counselling functions attributed to judicial self-government bodies, including notably the Judicial Council, and professional associations of judges, amount to a dedicated and focused policy for preventing and managing conflicts of interest and corruption risks within the judiciary, as is required by recommendation ix.
43. GRECO concludes that recommendation viii has been partly implemented and recommendation ix has been implemented satisfactorily.

Recommendation x.

44. *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.*
45. This recommendation was assessed as not implemented in the Compliance Report. GRECO had been informed that a Ministry of Justice working group had recommended to include an obligation for judges to declare liabilities and gifts in the Act on Judges and Lay Judges (AJLJ). However, it was clear that Parliament would not have time to approve relevant changes as parliamentary elections would be held in March 2016.
46. The authorities now report that amendments to the AJLJ were adopted by the National Council and entered into force on 1 July 2017. These introduced a requirement for judges to report liabilities in amounts exceeding 6 600€. According

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by competent authorities of the judiciary in relation to decisions made in the exercise of their powers, will be carried out by the Judicial Council once a year.

<sup>8</sup> See Article VI, paragraph 4) of the Code.



to the explanatory report, “liabilities” are understood to comprise not only debts and loans but also gifts, particularly given through a deed of gift.<sup>9</sup> The authorities state that the amount of 6 600€ represents approximately twice the average monthly income of a judge. The same threshold has also been established in respect of prosecutors (cf. recommendation xvi).

47. GRECO welcomes the adoption of legislative amendments establishing an obligation on judges to declare liabilities, including gifts received in a private capacity of a value above 6 600€. While accepting that the aforementioned threshold may be suitable for reporting liabilities in the form of debts and loans, GRECO is of the opinion that it is too high for gifts, bearing in mind both the salary scale for judges (cf. paragraph 75 of the Evaluation Report) and national economy. GRECO furthermore notes that the newly adopted Judicial Code of Conduct prohibits the acceptance by judges of “any gifts, benefits or privileges in any form” that may be offered to them in performance of their duties with a view to influence their judgment.
48. GRECO concludes that recommendation x has been partly implemented.  
  
Recommendation xi.
49. *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.*
50. This recommendation was considered not implemented in the Compliance Report. GRECO had noted that the system described was the same as the one assessed in the Evaluation Report. No measures had been taken to ensure a more in-depth scrutiny of asset declarations and to provide the Judicial Council with the necessary human and material resources to carry out reinforced scrutiny as a result of identified violations.
51. The authorities now recall the elements of asset disclosure by judges provided for under the Act on Judges and Lay Judges. They state that, in 2016, asset declarations of all (1 331) active judges were 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 and with special attention being paid to increases/decrements in property. If an irregularity is detected (for example, if the property exceeds 50 000€ and it is unclear from the declaration how it has been gained), the hand-written declaration is checked. Problematic declarations are submitted to the Judicial Council and discussed at a public hearing and explanations from the judge concerned are sought. In 2015, declarations made by four judges were discussed by the Council. During the same session it was agreed that an increase in a judge’s assets exceeding a value of 100 000€ is to automatically trigger a discussion with a judge. In 2016, this threshold had been decreased to 50 000€.
52. The authorities indicate that, to date, there have been no cases where a judge has not been able to explain an increase in property. Most anomalies result from errors or omissions. Discrepancies in asset declarations may not automatically constitute a disciplinary breach. These are discussed with the respective judge and, if properly

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<sup>9</sup> 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.

explained, no disciplinary measures ensue. The authorities also admit that the human resources of the Legislative Department of the Judicial Council remain insufficient and that this is a persistent concern.

53. GRECO notes some progress with respect to this recommendation, notably the use of dedicated software to compare asset declarations of judges and their close family members submitted with those of the previous year. Nonetheless, the human and material resources available to the Judicial Council remain insufficient to ensure in-depth quality checks of declarations submitted by over one thousand three hundred judges. Above all, it is worrisome that the threshold for the red flag that automatically triggers a request to a judge to explain property accruals is set rather high (above 50 000€). GRECO takes the view that it would be advisable to decrease the threshold to a level that takes better account of the overall economy and the salary of judges in the country. GRECO concludes that this recommendation has only been partly implemented and renews its invitation to the authorities to comply fully with it.
54. GRECO concludes that recommendation xi has been partly implemented.

*Corruption prevention in respect of prosecutors*

Recommendations xii and xiii.

55. *GRECO recommended:*

- *that (i) the 2012 Ethics Code be reviewed in order to establish whether it sets clear ethical standards of professional conduct for the Public Prosecution Service and is adapted if necessary and made public; and (ii) the proper application of the code be ensured (via a supervisory mechanism and sanctions) and supported by dedicated training, advice and counselling (recommendation xii);*
- *that guidelines on the prevention and management of actual and potential conflicts of interest be elaborated within the Public Prosecution Service (recommendation xiii).*

56. Recommendation xii was assessed as partly implemented in the Compliance Report. GRECO had taken note of the preparation of a draft Code of Ethics, in broad consultation with the Prosecution Service, and welcomed the carrying out of training sessions on ethics in the curriculum of the Judicial Academy for 2015. As for recommendation xiii, it was qualified as not implemented. The inclusion of a guideline on conflicts of interest in the draft Code of Ethics was planned but it remained to be seen whether it would provide sufficient explanations – such as a definition, possible examples and steps to be taken when confronted with a possible or actual conflict situations, or in case of doubt. Going beyond the scope of the recommendation, the Prosecutor General had agreed with the diagnosis of GRECO regarding a lack of available information on the frequency of disqualifications. He had therefore issued a binding instruction establishing a Register of Disqualifications at all levels within the Service. Moreover, legislative amendments had been prepared requiring instructions from superior prosecutors to their subordinates to be issued in writing, including when a prosecutor is removed from a case.
57. With respect to recommendation xii, the authorities now inform that the Act on Prosecutors and Candidate Prosecutors (APCP) was amended to establish a legal basis for adopting a Code of Ethics. New Section 2017a APPC reads that “ethical rules for prosecutors are contained in the Code of Ethics. The Code of Prosecutors’

Ethics shall be approved by the Council of Prosecutors, it shall be published on the website of the General Prosecutor's Office". The Code of Ethics for Prosecutors<sup>10</sup>, binding on all prosecutors, was adopted by the Council of Prosecutors on 11 January 2016 and published on the web site of the General Prosecutor's Office accompanied by a Commentary<sup>11</sup>.

58. New Sections 217b, 217c and 217d APCP have established an Ethics Committee competent to ascertain the conduct of prosecutors, including on its own motion. A separate body – the Disciplinary Commission – is to establish whether a prosecutor's conduct amounts to an ethical breach and to request the Committee's opinion thereon; the opinion of the Ethics Committee is not binding on the Commission. On 17 March 2016, the Assembly of Prosecutors adopted the rules for election of the Committee, following which the assemblies of prosecutors elected its nine members<sup>12</sup>, and the Committee became operational. Its Rules of Procedure entered into force on 16 June 2016 and it issued its first opinion on 19 October 2016. According to the Rules of Procedure, the Committee is to regularly publish all "generalising opinions and recommendations" and to inform the public on its activities via the website of the Prosecutor General's Office.
59. The authorities further report that training activities are continuously organised by the Judicial Academy as well as the Prosecution Service, and give concrete examples. Issues pertinent to professional ethics are furthermore put on the agenda of meetings held at the various levels of the Prosecution Service.
60. In so far as recommendation xiii is concerned, the authorities refer to the Code of Ethics for Prosecutors, which is meant to resolve all conflicts of interest related dilemmas. Resolution No. 2 of the Ethics Committee adopted in September 2016 defines conflicts of interest as "a contradiction between due performance of the duties of a prosecutor and his personal interests and his relation to the matter which has or could have an impact on due performance of the duties of a prosecutor, on his impartiality, independence and credibility in relation to the proceedings and decision in the matter". After having thoroughly considered this matter, the Ethics Committee concluded that the Slovak legal order now contains clear rules on how to resolve conflicts of interest, including in the newly adopted Code of Ethics, and that no practical problems pertaining to conflicts of interest are identified in the Prosecution Service.
61. Going beyond the scope of the recommendation, the authorities mention amendments to the APCP which have introduced a requirement for instructions from superior prosecutors to their subordinates to be issued in writing and, when a prosecutor is removed from a case, to be substantiated. Those instructions are to be published. Since the Register of Disqualifications has been established across all prosecution offices in January 2015, two cases have been identified where prosecutors had to be disqualified due to a conflict of interests.
62. GRECO commends the authorities for adopting the Code of Ethics for Prosecutors. The Code and its Commentary appear to be comprehensive and provide suitable guidance on the expected professional conduct. GRECO is pleased that the Code is conceived as a "living document" and will draw on and be interpreted in light of the reasoned decisions of the Ethics Committee as well as those of the Prosecution Service. Both the Code and the Commentary are accessible on a designated website. The Ethics Committee oversees the Code's application and can receive

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<sup>10</sup> <https://www.genpro.gov.sk/information-for-press/code-of-ethics-for-prosecutors-3973.html>

<sup>11</sup> <https://www.genpro.gov.sk/information-for-press/commentary-on-the-code-of-ethics-for-prosecutors-3974.html>

<sup>12</sup> The list of members is available on the website of the General Prosecutor's Office: <https://www.genpro.gov.sk/eticka-komisija-prokuratury/zoznam-clenov-etickej-komisie-prokuratury-3936.html>

complaints from any person, act *ex officio* and issue opinions in cases where a prosecutor's misconduct constitutes a breach of ethical rules. In 2016-2017, training programmes on the Code and related subjects were regularly held for prosecutors and candidate prosecutors. In view of the foregoing, GRECO concludes that recommendation xii has been implemented satisfactorily.

63. As for recommendation xiii, GRECO welcomes the adoption by the Ethics Committee of a definition of a conflict of interest and the inclusion in the Code of Ethics and its Commentary of the description of types of behaviour that would qualify as a conflict of interest and of specific preventive and remedial action. GRECO takes the view that the new policy framework, which is underpinned by the standards contained in the Constitutional Act on Protection of Public Interest in the Performance of Offices by Public Officials, the Act on Prosecutors and Candidate Prosecutors, the Criminal Procedure Code and the recently adopted Code of Ethics, and implemented *inter alia* with the involvement of the newly created Ethics Committee, is now adequately meeting the requirements of the recommendation. Going beyond the scope of the recommendation, GRECO welcomes the new ACP provisions on instructions and the information related to the functioning of the Register of Disqualifications.

64. GRECO concludes that recommendations xii and xiii have been implemented satisfactorily.

Recommendation xiv.

65. *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.*

66. This recommendation was categorised as partly implemented in the Compliance Report. GRECO had welcomed the development of a bill which was meant to facilitate *inter alia* access in practice to the affidavits and to the published part of prosecutors' asset declarations. On a more general note, GRECO had recalled its awareness of the lack of general standards in this field and of the need to strike an appropriate balance between the privacy and security of prosecutors and their family members, as the wording of the recommendation indicates. It had stressed that this recommendation was tailored to the specific situation in the Slovak Republic, in which prosecutors' affidavits and (part of) their asset declarations were public documents in theory, but access to them was restricted in practice.

67. The authorities now report that amendments to the ACP, effective as of January 2016, have introduced a requirement to publish and keep up to date the list of the country's prosecutors. Such a list has been published on the web site of Prosecutor General's Office<sup>13</sup>. Prosecutors' declarations of assets have also been made available on the same website<sup>14</sup>.

68. GRECO is satisfied that the previously existing contradiction between the public nature of prosecutors' affidavits and asset declarations, and the fact that these documents could only be searched by a prosecutor's first and last name - the information that was protected by law (except for the chief prosecutors' names), has been resolved. That being said, the comparison of the *published* declarations of prosecutors and judges shows that their format is different and that the former are not always consistent and mostly list the types of assets (e.g. real estate, movable property, revenues, loans) and liabilities (debts, loans, gifts) but not their monetary value. Although GRECO understands that the value-related information is disclosed

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<sup>13</sup><https://www.genpro.gov.sk/prokuratura-sr/menny-zoznam-prokuratorov-slovenskej-republiky-3928.html>

<sup>14</sup> <https://www.genpro.gov.sk/prokuratura-sr/majetkove-priznanie-30a3.html>

by prosecutors to the competent authority, the public does not have access to it and therefore is not in a position to form an objective view on the value of each item of a prosecutor's assets or their global value. GRECO concludes that this situation needs to be rectified and the scope of information from a prosecutor's asset declaration expanded to consistently include value-related information.

69. GRECO concludes that recommendation xiv has only been partly implemented.

Recommendation xv.

70. *GRECO recommended that the acceptance, reporting and management of gifts by all categories of prosecutors while performing their duties be regulated.*

71. This recommendation was considered partly implemented in the Compliance Report. GRECO had welcomed a prohibition on trainee prosecutors accepting gifts and other advantages in relation to their duties and the inclusion of a similar prohibition in the draft Code of Ethics. It had noted that gifts of a value exceeding 6600€ had to be reported in prosecutors' asset declarations, but that no provision was made for the reporting and management of gifts under this high threshold.

72. The authorities refer to paragraph 1.4 of the Code of Ethics for Prosecutors: "Prosecutors shall not accept any invitations, gifts or any other favours that would give rise to any suspicion or cast any doubt on their independence". The Commentary to the Code provides additional guidance.

73. GRECO is satisfied that the Code of Ethics prohibits the acceptance of gifts by prosecutors. The Commentary to the Code further clarifies that "prosecutors shall not accept any gift *in connection with the exercise of their office*, except for gifts received at official admissions of delegations and when representing the Prosecution Service in international co-operation." Prosecutors are to report any proposals of gifts, whether tangible or intangible, to their line managers. GRECO recalls that, previously, there was no ban on prosecutors accepting gifts, save the Prosecutor General in his/her capacity as a public official under the Constitutional Act on Protection of Public Interest in the Performance of Offices by Public Officials. This recommendation has thus been implemented satisfactorily.

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

Recommendation xvi.

75. *GRECO recommended introducing an obligation on prosecutors to declare liabilities (e.g. debts and loans) and gifts above a certain threshold.*

76. This recommendation was assessed as partly implemented in the Compliance Report. GRECO had welcomed the draft provision introducing an obligation on prosecutors to declare liabilities, but noted again that the 6 600€ threshold was high.

77. The authorities now explain that the revised APCP<sup>15</sup> has established an obligation on prosecutors to disclose contractual obligations, as well as real estate, movable property and property rights and other values received for free if their value exceeds 6 600€. If the aggregate value of such assets exceeds 16 600€, they are to be disclosed even if their additional value does not exceed 6 600€. The Prosecutor General's Office has reviewed the threshold of 6 600€ and considers it sufficient and not requiring modification.

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<sup>15</sup> Section 28(2)

78. GRECO acknowledges that prosecutors are now obliged to declare liabilities (debts and loans) as well as gifts. However, as before, it finds the threshold of 6 600€ for reporting gifts received by prosecutors in a private capacity to be too high.
79. GRECO concludes that recommendation xvi remains partly implemented.

### III. CONCLUSIONS

80. In view of the conclusions contained in the Fourth Round Compliance Report on the Slovak Republic and in view of the above, GRECO concludes that the Slovak Republic has implemented satisfactorily or dealt with in a satisfactory manner six of the sixteen recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, eight recommendations have been partly implemented and two recommendations have not been implemented.
81. More specifically, recommendations vi, vii, ix, xii, xiii and xv have been implemented satisfactorily, recommendations ii, iii, iv, viii, x, xi, xiv and xvi have been partly implemented and recommendations i and v have not been implemented.
82. As for members of parliament, the only progress recorded has been the revision of the Rules of Procedure of the National Council with a view to establishing the legal basis for a Code of Conduct for MPs and for holding MPs accountable for breaches. Although the draft Code of Conduct is said to have been prepared and to address *inter alia* conflicts of interest and the acceptance of gifts and other benefits by MPs, it remains to be endorsed by the inter-parliamentary Working Group before being 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 how to further refine financial disclosure rules and strengthen their supervision and enforcement.
83. With respect to judges, the progress has been mixed. The corruption prevention framework has been reinforced by the new Judicial Code of Conduct, which is implemented through a unified approach involving judges, judicial self-governing bodies, including notably the Judicial Council, and professional associations of judges. The combination of the new rules and the new supervisory and advisory/counselling functions attributed to judicial bodies amount to a dedicated policy aimed at preventing and managing conflicts of interest within the judiciary. Nonetheless, the Code itself is worded in too general terms and remains to be complemented by detailed "interpretation rules", relating *inter alia* to conflicts of interest and give explanations and concrete examples of actual and potential conflicts of interest derived from practice. Similarly, while the adoption of legislation establishing an obligation on judges to declare liabilities and gifts is a positive development, the threshold for declaring gifts received by judges in their personal capacity remains too high and more efficient scrutiny of judges' asset declarations has to be ensured.
84. As regards prosecutors, several developments are to be welcomed. The Code of Ethics for Prosecutors, accompanied by a detailed commentary, has been adopted and its supervision entrusted to the Ethics Committee. Prosecutors may no longer accept gifts while performing their duties and are to declare liabilities in the form of debts and loans. That being said, as in the case of judges, the threshold for declaring gifts received by prosecutors in their private capacity needs to be lowered to an appropriate level and the scope of public disclosure of the information from

the asset declarations of prosecutors expanded to consistently include value-related information.

85. The Slovak Republic is making 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 recommendations. It encourages the country to pursue these reforms. GRECO, in accordance with Rule 31, paragraph 9 of its Rules of Procedure, invites the Head of delegation of the Slovak Republic to submit additional information regarding the implementation of the pending recommendations i to v, viii, x-xi, xiv and xvi by 31 July 2018 at the latest.
86. 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.